1681

THE Scotch-Mist CLEARED UP.

To prevent *Engliſhmen* from being wet to the skin. Being a true *Account* of the Proceedings againſt *Archibald* Earl of *Argyle*, for *High-Treaſon*. Wherein are contained Eight Reaſons of ſeveral Conformable Miniſters in *Scotland* againſt the Teſt: 1. The Confeſſion of Faith. 2. The Teſt. 3. The Earl of *Argyles* Explanation. 4. The Explanation of the ſecret Council. 5. The Charge againſt the ſaid Earl. 6. His Trial. 7. The Act concerning the Teſt. With Animadverſions upon the whole Affair.

4

The INTRODUCTION.

THE Church of *Scotland* after hard labour, and many ſharp pangs, cauſed by the ſtruggling of contrary Intereſts in her Womb, was happily delivered of a bleſſed Reformation in the main points of the Chriſtian Faith, *Anno* 1560. In which a Parliament being called by the allowance of the King, [illegible] (at that time reſiding in *France*) ſat down, and on the [illegible] the *Confeſſion of Faith*, conſiſting of 26 Articles, was [illegible] agreed upon. In which Parliament two others [illegible] the one [illegible] the *Maſs*, the other for [illegible] the *Pope*, and [illegible] power in *Scotland*, were paſſed by the States. [illegible] Lord of St. [illegible] [illegible] [illegible]

Queen, could not prevail for the Royal Assent, the Queen being a great Zealot for the Papal Heterodoxies; so that for some time that famous *Confession*, though owned as the Test of the whole *Protestant Party*, could not glory to be the National Religion, or the standard of Truth to the whole Kingdom.

In the year 1567, King *James* the sixth being happily Crowned in his Cradle, *July* 29, a Parliament was held at *Edenburgh* on the 15. of *December*, in which *James* Earl of *Murray* being constituted *Regent* during the Kings Minority, the former *Confession of Faith* was ratified in *Terms*, and made the staple Doctrine of the Realm; when it was further Enacted, that such as opposed that *Confession*, or *refused to participate of the Sacraments*, as they were then ministred, should not be *reputed for members of the Kirk within that Kingdom*.

And that they might for ever after (as far as the wisdom and policy of man could reach) prevent the Apostasie of the Nation from the Faith then solemnly owned, and its Relapse into Popery and Idolatry, it was Ordained that all Kings, Princes, and Magistrates, should at the time of their Coronation, or Receipt of their Princely Authority, take their *Great Oath* in the Presence of God, *That they shall maintain the true Religion of Jesus Christ, the Preaching of his holy Word, and due Administration of the Sacraments then received, and shall abolish all false Religion contrary to the same*.

In this eminent advance towards a perfect Reformation, Mr. *John Knox* was a great Instrument, a person of whom nothing moderate, nothing mean is spoken, by any that have had, or made an occasion to mention his name; with some he bears no less than seditious, turbulent, factious: amongst those of another temper he is recorded, pious, learned, zealous. But to speak a great plain truth, as any one is engaged in, or leaning to the Popish or Protestant Interest, so is he either extolled to Heaven, or decried to the pit of Hell.

Bale (in *Century* 14.) Characterizes him as a person of *great Literature, wonderful Courage*, notable zeal, and singular success in Preaching the Gospel of Christ, almost then a stranger to those Northern Climates. *Beza* stiles him the *Apostle* of the *Scots*, magnifies his pregnant Wit, his Education under *John Major*; his surpassing his Tutor, his early receiving the light of the Gospel; his Renunciation of Popery, his undaunted Profession of the Faith before his enemies; his Condemnation by them, his Exile in *England*; his nearness to King *Edward* the Sixth, and an offer made to him of a Bishoprick, which he with much modesty and self-denial refused.

Melchior Adam in his Life, is large upon this subject; nor yet do there want others who have employed their Pens to throw Ink in the

the face of this great man, who ſtanding in a place ſo publick, and bearing ſo conſiderable a figure in the *Scotiſh* Church, and in foreign parts alſo, 'twas impoſſible but his virtues and vices muſt be conſpicuous, neither of which would want their utmoſt aggravations and ſtraining, as they fell in the way of the conteſting parties.

But that which in my judgment is his greateſt ornament, and an atteſtation from Heaven it ſelf, is this, That that *Confeſſion of Faith* compoſed by him, and afterwards confirmed by the firſt Parliament of King *James* the Sixth, notwithſtanding the many bickerings and fierce conteſts about Religion, which have diſquieted that poor Kingdom, whatever alterations have been made in Worſhip, Diſcipline, and Government of the Church, yet ſtill this *Confeſſion* has ſtood as the openly avowed Doctrine of the Realm; and conſidering all circumſtances, 'tis very probable that no force or power will be able to extort it out of their hands.

A preſumptive Argument whereof is this, That whereas the name of Mr. *John Knox* be grown into contempt among many of them, his Diſcipline hated to the death, his Principles as to Monarchy rendred odious, yet no attempt (at leaſt none ſucceſsful) has been yet made to repeal that Syſteme of Doctrine penned by him and his Brethren: Inſomuch that when this preſent year 1681, an Oath was impoſed by the Parliament to be taken by all that *bear any publick Truſt*; this *Confeſſion* was referred to therein, as the meaſure of the common belief, the Teſt of the publick Orthodoxy, and the ſtanding ſcale of the Proteſtant Religion current in the Nation.

CHAP. I.

Of the Confeſſion of the Faith owned in the Church of Scotland.

THE late Impeachment of *Archibald* Earl of *Argyle* for High Treaſon, as it hath been for ſome time the ordinary Theme of Diſcourſe; and becauſe the ſaid Earl appeared in ſo eminent a Character as one of the Lords of his Majeſties moſt *Honourable Secret Council*, and a *Commiſſioner in the Treaſury*, (Offices of great Honour and Truſt) it ſeemed hard to conceive what temptations could be ſtrong enough to ſeduce him from his Allegiance.

The more Inquiſitive part of men who laboured to profound the myſtery, were ſoon informed, That whereas an *Oath or Teſt to be taken by all perſons in publick Truſt*, was impoſed by vertue of an

All anent Religion; and the Test made at *Edenburgh* the last day of *August*, *One thousand*, *Six hundred*, *Eighty and one*, the said Earl had put an Interpretation upon it before the *Secret Council*, when called on to take the said Oath according to the duty of his place. This action of his was censured by some as rash, and unadvised, by others as Christian, and conscientious; and divers men gave their divers judgments thereof, as interest, or affection, or perhaps as better information dictated to them, till at last it was reported that his said Interpretation purported Treason, and that he would be tried upon it for his Life, his Honours, and whole Estate.

No sooner did his Explanation or Interpretation of the Oath appear in Print, but the judgments, conjectures, and guesses of all men were hard at work, to divine wherein the Treason imputed to it should lie; for the superficial Readers could discern in it nothing but what was rational, loyal, modest, and becoming a good Christian, but the more prying and politick heads soon discovered a vein of most horrible Treason lurking in it. And because all men are not of the same depth of judgment, but some are apt to make a hasty and slighty judgment of matters, I have thought it convenient to give them what satisfaction I could arrive to my self, and to lay before the world whatever of Treasonableness and disloyalty I could find therein.

And because the aforesaid Oath doth in the first place relate to the *Confession of Faith* before mentioned, it is absolutely necessary that I give some account thereof, as humbly conceiving it impossible to come to a determination, whether the Earl had just ground for his scrupulous hæsitancy in subscribing before it be cleared, what the *Tenor* and nature of that Confession is, to which Subscription is so peremptorily required.

This Confession is compriſed in 25 Articles: The 1. of God: 2. Of the Creation of man: 3. Of Original Sin: 4. Of the Revelation of the Promise: 5. The continuance, preservation and encrease of the Church: 6. Of the Incarnation of Jesus Christ: 7. Why it behoved the Mediator to be very God, and very Man: 8. Of Election: 9. Of Christs Death, Passion and Burial: 10. Of the Resurrection: 11. Of his Ascension: 12. Of Faith in the Holy Ghost: 13. Of the cause of Good-works: 14. What works are reputed good before God: 15. Of the perfection of the Law, and the imperfection of man: 16. Of the Church: 17. Of the Immortality of the Soul: 18. Of the Notes by the which the true Church is discerned from the false, and who shall be Judg of the Doctrine: 19. Of the Authority of the Scriptures: 20. Of the

General

General Councils, of their power, authority, and cauſe of their Convention: 21. Of the Sacraments: 22. Of the right adminiſtration of the Sacraments: 23. To whom Sacraments appertain: 24. Of the Civil Magiſtrate: 25. Of the Gifts freely given to the Church.

From theſe naked Heads, and bare titles of the Confeſſion, it will be yet impoſſible to conjecture whence the difficulty ſhould ariſe; and therefore that the Reader may not complain of any omiſſion of what might poſſibly contribute to his ſatisfaction, I ſhall freely tranſcribe from the ſaid Confeſſion what might poſſibly ſtick with him, or give any occaſion to that *Salvo*, or Explanation, with which the Earl was willing to take the Oath.

In the 16 Article of the Church, it is aſſerted, *That Jeſus Chriſt is the only Head of the Church*: In the *Teſt* it is required to ſwear *that the Kings Majeſty is the only ſupreme Governour in this Realm, (viz. of Scotland) over all perſons, and in all cauſes as well Eccleſiaſtical as Civil.* It is poſſible that as wiſe a man as the *Earl* may ſuppoſe theſe terms, *the only Head*, and *the only Supreme Governour*, are equivalent, and that there may be though *no real*, yet a *ſeeming contradiction*, which might be ſufficient ground for an explanation of the Oath, that no quarrel might afterwards ariſe either between him and his Conſcience, or between him and his Prince; however, it might poſſibly come into his head to adjuſt matters, ſo that he might not ſet Jeſus Chriſt, the King, and his Conſcience together by the ears, as knowing well if he did, who would have the beſt of it in the iſſue: And yet I proteſt I dare neither put a conſtruction upon the *Confeſſion* upon the *Oath*, or upon the Earls *Explanatory Declaration*, becauſe I cannot prognoſticate what may be Treaſon if ever I ſhould have ſo little wit as to travel Northwards.

In Article 19, *Of the Notes whereby the true Kirk is diſcerned from the falſe*: we find the Church renouncing *Lineal Deſcent* (or ſucceſſion) as meant of thoſe *Notes*, or *aſſured Tokens, whereby the Immaculate Spouſe of Chriſt is known from the horrible Harlot, or Kirk malignant.* In the Teſt it is required to ſwear that *there lies no obligation upon him from the National Covenant, or the Solemn League and Covenant, to endeavour any change or alteration in the Government, either in Church or State, as it is now eſtabliſhed.* Now whether he conceived that a *Lineal Deſcent* of Prieſts from Biſhops and Archbiſhops, might not poſſibly run him up as high as the Papal Hierarchy, is a ſecret in his own boſom, and not to be unlockt by any bold conjecture of mine.

It's more ſuſpicious that what follows in the *ſame Article* might adminiſter ſome appearance of contrariety between the *Confeſſion*

and

and the *Test*, for in this *Article* we read thus, *Ecclesiastical Discipline uprightly ministred, as Gods word prescribeth, whereby vice is repressed, and virtue nourished, is a note of the true Church.* Now if he apprehended that the Discipline at present established, either was not such as *Gods Word prescribed*; nor such as whereby *vice is repressed*, and *virtue encouraged*, it is possible he might think it somewhat hard to swear without a *Salvo*, not *to endeavour any alteration in the Government of the Church*, seeing that the *repressing of vice*, and *nourishing of vertue*, being the great ends of *Ecclesiastical Discipline*, whatever Discipline does not reach those ends, may need *an alteration*, and by consequence that it might be his duty to *endeavour* it, especially if the means of such alteration were no other than what were *lawful*, and that he acted no otherwise than in *his place and station*.

He might also conceive (for ought I know) that it was not simply impossible for a *Church* in her *Canons*, for a *Nation* in its *Acts* and *Laws* to contradict it self; for besides that it seems the peculiar Prerogative of the Sacred Oracles not to admit of real self-contradictions, the Systemes of Humane Laws and Constitutions, being voluminous, and ordained by several persons, in several ages, acting upon various interests and Principles, and none of these Legislators either separately, or conjunct, guided by an infallible Spirit, but many times by their Personal and particular inclinations, tempers, interests and factions; besides I say all this, that very Article supposes it to be *a thing universally granted that the Spirit of God, which is the spirit of unity, is in nothing contrarious to it self*; but yet supposes also, *that the interpretation, determination, or sentence of a Church or Council may be contrary and repugn to the plain word of God*, and so to it self also. However to suppose such a thing is no such absurdity; or at worst, it's hard to conceive where the venom, poyson or malignity of the Treason should lodg, unless there should be any Authentick Charter of Infallibility privately sent down in a Portmantle, which has influenced the Assembly with this Sacred priviledg.

In the 22 Article *of the right administration of Sacraments*, there seems somewhat which may minister cause of stumbling to a weak judgment, *viz. That Sacraments be rightly ministrate we judg two things requisite, the one that they be ministrate by lawful Ministers, they being men lawfully chosen by some Church*; and why may not we fancy that the Earl might conceive that the present Ministers not being *chosen by the Church*, but nominated by the Patron, instituted by the Bishop, and inducted by some other at the Bishops appointment, were not therefore lawful Ministers and Pastors of the flock, as wanting that *Election* which the Article makes so necessary to the

right

right administration of Sacraments, and therefore that the Sacraments administred by such as are not lawful Ministers, are all meer nullities, and therefore further he might conceive it hard to be compelled to swear that he would *endeavour no alteration*, in his *place and station*, by means *just and lawful*.

Add hereunto what is asserted in the same *Article*, as the *second* requisite to the right ministration of the Sacraments, *viz. That they be ministred in such Elements, and in such sort as God hath appointed, else we affirm that they cease to be* right Sacraments *of Jesus Christ*; *and therefore it is that we flee the society with the* Papistical *Church, in participation of their Sacraments*: First, *because their Ministers are no Ministers of Jesus Christ*: *And* secondly, *because they have so adulterated both the one Sacrament and the other, with their own inventions, that no part of Christs Action abideth in the original purity. For oil, salt, spittle, and such like in Baptism, are but mens inventions.* Whereas therefore *the Oath requires him solemnly to swear as in the presence of God, that he owns, and sincerely professes the Protestant Religion contained in the Confession of Faith* (whereof this Clause is a main part) *recorded in the first Parliament of King* James *the Sixth, and that he believes the same founded on and agreeable to Gods Word*; *and thereupon promises and swears that he will adhere thereto all the days of his life.* And perhaps seeing, or thinking that he sees some Ceremonies at present practised, and possibly establisht by some other Law, which according to his weak judgment have no more warrant from Gods Word, than *Oil, Salt and Spittle*, which that *Article* condemns for such *inventions of men*, as make the Sacraments *cease to be the true Sacraments of Jesus Christ*, and such as they are sworn to *fly from*. I say having these conceptions, 'tis short of impossible that he might conceive himself bound to enter his Explanatory *Salvo*, lest he should either repugn the *Article* which he swears to, or swear to a Contradiction, that he will endeavour no alteration; seeing he might think that the *Confession* must either be reformed according to the *present practice*, or the *present practice* reformed by the *Confession*, to render them Harmonious.

To go on, in the 23 *Article of the Confession, to whom the Sacraments appertain*, it is asserted, *That the Sacrament of the Supper of the Lord appertains only to such as have been of the houshold of faith, and can try and examine themselves as well in their faith, as in their duties towards their neighbours. That such as eat at the Holy Table without faith, or being at dissention and division with their brethren, do eat unworthily. And therefore it is that in our Churches, Ministers take publick and particular examination of the knowledg and conversation of such as are to be admitted to the Table of our Lord Jesus.*

In

In this *Article* then there are two things remarkable, firſt matter of *right*, who they are that may challenge and claim that bleſſed priviledg; and the *Article* is expreſs, *Such as are of the houſhold of faith; ſuch as can examine themſelves of their faith and charity.* Secondly, we have matter of *fact*, what was the uſage and practice of that Church as then conſtituted and eſtabliſhed, and that is expreſſed thus, *They take both publick and particular examination of the knowledg and loves of thoſe that are to be admitted to the Lords-Supper.*

But now ſuppoſe the Earl had obſerved that the preſent practice was contrary to the declared right; ſuppoſe he ſaw the former Diſcipline neglected, and it may be other rules for admiſſion introduced, ſuppoſe he knew that vicious and debauched perſons were ordinarily and promiſcuouſly admitted to that Ordinance, without previous examination in publick; I cannot tell but it might ſtumble him into a conceit, that it was his duty to endeavour *a reformation according to the Word of God, and the Doctrine of the Church*, which he had ſworn to; and that he muſt be guilty of downright perjury, if he ſhould ſwear to the Confeſſion, and that Clauſe in it, *And therefore it is that in our Churches Miniſters take publick and particular examination of the knowledg and converſation of ſuch as are to be admitted*, if really, and in fact there be no ſuch publick and particular examination taken.

Theſe things I have only mentioned, not knowing whether indeed his Lordſhip ſcrupled at any or all of them, but ſimply propoſing what he might poſſibly ſcruple, in caſe he was of a timerous and tender ſpirit: But poſſibly there may be more ground of ſuſpicion from what follows, *Article* 24, *Of the Civil Magiſtrate*; for here 'tis not impoſſible but he might find ſome expreſſions which came not up fully to that height of Loyalty and zeal for his Prince, which he was conſcious of in his own breaſt; which Clauſes though they might ſpeak nothing *but the truth*, yet perhaps might not ſpeak *the whole truth*; and though they aſſerted nothing but Loyalty, yet they might ſpeak ſomething ſhort of a Subjects compleat Loyalty.

And to tell the truth, I have heard from an ear-witneſs, that the Reverend Biſhop of *Edenburgh* in a Sermon preacht by him preſently after the *Act* for the *Teſt* was paſſed, declared openly in the Pulpit, that the *Teſt* did contain *ſomething more* than what was to be found in the *Confeſſion*, which yet without contradiction might well be; nevertheleſs let us hear the *Article* it ſelf, *We confeſs and avow that ſuch as reſiſt the Supream powers*, (doing that which appertaineth to their charge) *reſiſt Gods Ordinance, and therefore cannot be guiltleſs. And further, we affirm that whoſoever deny to them their aid, counſel, and*

aid comfort, (whilst the Princes and Rulers vigilantly travel in the executing of their Office) *that the same men deny their help, support, and counsel to God.* In which Clauses there seem to be two things considerable: 1. They testifie *against resistance*, but then it's only against resisting the *Supreme power*, and seems not to be extended to those *that are commissionated by them*; and then (which is suspicious) it's bounded and limited with an odd Clause, *viz. Doing that which appertaineth to their charge.* 2. They declare for active obedience, *in aiding, supporting the Supreme powers*; but withal *'tis while the Princes and Rulers vigilantly travel in executing their Office.* So that at the first blush it may seem to insinuate and allow some such thing, that if the Supreme powers *do that which appertains to their charge*, they are not to be resisted, otherwise they may; and that *so long as they travel, and vigilantly travel in the execution of their duty*, they are *actively to be obeyed*, otherwise not. And who can tell that the *Earl* might not fear that something herein might be short of his duty, and therefore desire he might explain himself to this purpose, *That he meant not to bind up himself from endeavouring any alteration, which might restrain the generosity and loyalty of his soul in giving a more universal and unlimited obedience.*

It is true, the Secret Council has given an Explanation of this matter, which is far enough from any Impeachment of Loyalty: But yet it would be stranger, that his Explanation of the Test to a sense so conform to that of their Lordships should ever be construed up so high, as High Treason.

But that which seems most probably the greatest difficulty is what we meet withal in *Art.* 14. *alias* 15. *What works are reputed good before God?* Amongst which to *repress Tyranny* is enumerated as a work *morally good*, and within the particular duties of the Decalogue, and the evil work contrary thereto they assign to be, *to resist or disobey any that God hath placed in Authority, while they pass not over the bounds of their Office.* And now what marvel can it be if the Earl upon these, or some of these considerations interposed a declaration of such a sense as might render the Confession not derogatory to, or clashing with his Loyalty, at least it's very severe to interpret the excess of Loyalty to be High Treason..

Let thus much suffice concerning the *Confession of Faith*, with the influence it might possibly have upon the doubts and scruples of the Earl of *Argyle*, relating to the Oath.

CHAP. II.

Of the Oath to be taken by all Persons in Publick Trust.

MY next labour must be to give the Reader a true Copy of the *Oath* or *Test*, that so comparing the *Oath* with the *Confession*, the Reader may have the better light to form a comparison between them, and to make a judgment (I mean in his own breast,) whether there be found, and can rationally be suspected any contrariety between them that might move a loyal Subject, an upright Christian, a rational man, to stick at the subscribing and swearing to it.

The Tenor of the Oath to be taken by all Persons in Publick Trust.

I ——— *solemnly swear in presence of the Eternal God, whom I invocate as Judg, and Witness of my sincere intention of this my Oath, That I own, and sincerely profess the true* Protestant Religion, *contained in the* Confession of Faith, *recorded in the first Parliament of King* James *the sixth*; *and that I believe the same to be founded on, and agreeable to the written Word of God. And I promise and swear, that I shall adhere thereto, during all the days of my life-time, and shall endeavour to educate my Children therein: And shall never consent to any change, or alteration contrary thereto: And that I disown, and renounce all such Principles, Doctrines, or Practicks, whether Popish, or Phanatical, which are contrary unto, and inconsistent with the said* Protestant Religion, *and* Confession of Faith. *And for testification of my Obedience to my Most Gracious Soveraign* CHARLES *the Second, I do affirm and swear, by this my solemn Oath, That the Kings Majesty is the only Supreme Governour of this Realm, over all Persons, and in all Causes, as well Ecclesiastical as Civil: And that no forreign Prince, Person, Pope, Prelate, State, or Potentate, hath, or ought to have any Jurisdiction, Power, Superiority, Preheminency or Authority Ecclesiastical or Civil, within this Realm. And therefore I do utterly renounce, and forsake all Forreign Jurisdictions, Powers, Superiorities and Authorities. And do promise, that from henceforth, I shall bear Faith and true Allegiance to the Kings Majesty, His Heirs and lawful Successors. And to my power shall assist and defend*

ſend, all Rights, Juriſdictions, Prerogatives, Priviledges, Prehemineñcies, and Authorities belonging to the King: Majeſty, His Heirs and Lawful Succeſſors. And I farther affirm and ſwear by this my ſolemn Oath, That I judg it unlawful for Subjects, upon pretence of Reformation, or any other pretence whatſoever, to enter into Covenants or Leagues, or to Convocate, convene, or aſſemble in any Councils, Conventions, or Aſſemblies, to treat, conſult, or determine, in any matter of State, Civil or Eccleſiaſtick, without His Majeſties ſpecial command, or expreſs licence had thereto, or to take up Arms againſt the King, or thoſe Commiſſionated by Him: And that I ſhall never ſo riſe in Arms, or enter into ſuch Covenants, or Aſſemblies: And that there lies no obligation on me from the National Covenant, *or the* Solemn League and Covenant *(ſo commonly called) or any other manner of way whatſoever, to endeavour any change or alteration in the Government, either in Church or State, as it is now eſtabliſhed by the Laws of this Kingdom. And I promiſe and ſwear, that I ſhall with my utmoſt power, defend, aſſiſt and maintain His Majeſties Juriſdiction foreſaid againſt all deadly: And I ſhall never decline His Majeſties Power and Juriſdiction,* as I ſhall anſwer to God. *And finally I affirm, and ſwear, that this my ſolemn Oath is given in the plain genuine ſenſe and meaning of the words, without any equivocation, mental reſervation, or any manner of evaſion, whatſoever. And that I ſhall not accept, or uſe any diſpenſation from any Creature whatſoever.* So help me God.

That an Oath is a part of immediate Divine Worſhip, cannot be denied by any that underſtand the nature of that ſolemn Appeal to God; that we ought to ſwear *in truth, righteouſneſs and judgment*, is as little queſtionable to them that believe the Scriptures to be the Word of God; whoever therefore ſhall ſwear to what he knows to be falſe, or to what he knows not to be true, ſtands guilty of *taking the Name of God in vain*, who will not (whatever men may do) acquit him of that Profanation without repentance.

It becomes therefore every Chriſtian who would free himſelf of this guilt, adviſedly, deliberately, with great care and caution to approach this Sacred Ordinance of God, to *make inquiry* before *his Vows*, leſt having raſhly enſnared his ſoul, he finds himſelf in a nooſe which he may ſooner cut than untye.

In all *Impoſed Oaths*, penned and preſcribed by others, the words of the Oath are to be taken in the moſt *natural*, plain, eaſie, and familiar ſenſe. If the Oath be ſo *unhappily penned* that the words, ſentences, and expreſſions thereof are obviouſly lyable to various and different ſenſes, the *Impoſer of the Oath* ought to explain and interpret his own ſenſe and meaning: If the Impoſer ſhall affix any ſenſe

or meaning upon the Oath, which the Grammar and plain Letter of the Oath will not bear; if in the Grammatical ſenſe the Oath be unlawful, no incongruous ſenſe given will aſſoil the taker of the Oath from ſinful ſwearing: If the Impoſer ſhall ſo interpret an Oath that according to his ſenſe it is unlawful to be taken, which yet in the proper, plain, and obvious ſenſe is lawful, the Subject may warrantably take the ſaid Oath in its genuine unforced meaning; for there is no reaſon why the Impoſer ſhould make that a ſnare by his falſe interpretation, which without ſuch interpretation had been none at all: If the Impoſer ſhall refuſe to interpret and explain his Oath, the Refuſer has a right to offer his own interpretation, to reconcile it with its ſelf, and with the Word of God, provided ſuch interpretation put no force, offer no violence to any evident ſentence or Propoſition in the Oath. If the Impoſer ſhall refuſe to give ſuch candid conſtruction of his impoſed Oath, and not permit the Receiver to interpret for himſelf, and that without ſuch publick and private conſtruction, the Oath as it ſtands *in Terminis* appears contrary to ſome truth (if it be aſſertory) or to ſome duty (if it be promiſſory) the ſubject upon whom it is impoſed, and to whom it is tendred, is bound in conſcience to God to refuſe it, and rather the penalty, whatever it be, humbly ſubmitted unto.

And as to the Oath now before us, that it ought to be taken in the natural fair and ordinary ſenſe is part of the Oath it ſelf: *And finally I affirm that this my ſolemn Oath is given in the plain, genuine ſenſe and meaning of the words.* It is very ſtrange to hear men ſtudy Evaſions, how they may ſwear without Evaſions; and firſt of all ſolemnly to proteſt that they will take the Oath in the plain ſenſe, and yet afterwards can find no plain ſenſe in which to take it; but becauſe of Oaths the world at this day mourns, when the common practice is to reſolve firſt to ſwear, and afterwards to ſtudy how to prove they have ſworn lawfully: It is therefore a conſcientious method in the Subject, to declare in what ſenſe he is willing to be ſworn, and if that be rejected, to reject the Oath, and abide by the conſequences of his refuſal.

At preſent I ſhall only propound theſe few Queries.

1. *Qu.* Whether a Rational man, a ſincere Chriſtian, a loyal Subject, might not poſſibly doubt in the plain meaning of this *Oath-Teſt*, ſeeing ſo many of the *Scotiſh Synods*, which we ſuppoſe are made up of the beſt learned and moſt religious perſons in the Realm did for ſome time upon its firſt appearance exceedingly ſtagger at the taking of it, all or moſt demurred, and many plainly rejected it, as that which no lawful interpretation would render paſſable?

2. Whe-

2. Whether it might not consist with a good understanding, an upright conscience, and severe principles of Loyalty, to be cautelous in this case when ever the *Secret Council it self*, saw a necessity of making several Explanatory rules according to which it should be taken for the satisfaction of those that were dissatisfied, and without which 'tis more than probable they would never have taken it.

3. Whether an *Oath* which binds to the belief of *a Confession of Faith*, consisting of 25 *Articles*, (some of them very prolix) and an addition of some other matters, Principles, Doctrines, and notions, which are at least *larger than those Principles and Doctrines contained in that Confession*, may not minister matter of debate between a good Christian and his own Conscience, how far, and in what sense, with what restrictions and limitations it ought to be taken, if at all it may be taken?

4. Whether seeing that in the taking of an Oath great regard is to be had to the principles, ends, interests, designs of the Imposers; and seeing it is most evident that the Principles, interests of the first Compilers of the *Confession*, were differing from the Principles of the Imposers of the *present Oath*, it will not necessarily follow, that 'tis impossible to swear to this Test without a contradiction, unless we can oblige our selves to a belief that Mr. *John Knox*, and His Majesties present *Lord High Commissioner*, with the Right Reverend the Archbishops, the Reverend the Bishops, do center in the same Principles of Religion, the same Politicks, and Sentiments about the governing of this World, and attaining the next?

5. Whether the Act of Parliament whereby this Oath is imposed, do not by very clear consequence prove that there is more than ordinary difficulty in the conscientious taking of it; when as the *Kings lawful Sons and Brothers* are exempted from taking it; who yet may be supposed to see as far into the lawfulness of an Oath as most other men?

6. Whether it may not create disturbance in a mans Conscience to swear there lyes *no obligation upon him from the National Covenant, or the Solemn League and Covenant*, or by any other manner of way whatsoever *to endeavour any alteration in the Government in the Church*; if the same person be at the same time conscious to himself *of another obligation* lying upon him, and that by *just authority* to endeavour *some such alteration?*

CHAP.

CHAP. III.

Of the Earl of Argyle's *Interpretation, or Explanation of the Oath-Teſt, upon which he was Tried and Caſt, as Guilty of High Treaſon.*

THE next ſtep I ſhall make towards ſatisfaction in this difficult Point, is to exhibit the Earl of *Argyle*'s Explanation, in which he took the *Oath*, that ſo we may the better ſift out this *latent Treaſon*, which he is like to feel the effects of ſooner than we ſhall ſee the bottom of; which I find Printed at *Edenburgh* for *James Alexander*, 1681: *I have conſidered the Teſt, and I am willing to give obedience ſo far as I can: I am confident the Parliament never intended to impoſe contradictory Oaths; and therefore I think no man can explain it but for himſelf; and reconcile it as it is genuine, and agree in its own ſenſe. And I take it, in ſo far as it is conſiſtent with it ſelf, and the Proteſtant Religion: And I do declare I mean not to bind up my ſelf, in my ſtation, and in a lawful way to reach and endeavour any alteration, I think to the advantage of Church or State, and repugnant to the Proteſtant Religion, and my Loyalty, and this I underſtand as a part of my Oath.*

The news of the horrid Treaſon wrapped up in theſe words flew over into *England* ſome while before we had a true Copy of the Explanation it ſelf; and I remember well when firſt an Authentick Copy compeared before us, we all ſtood looking upon one another as *Joſephs* Brethren in their grand ſurprize, not knowing, nor able for to Divine wherein the venom and poyſon of this peſtilent Treaſon ſhould lurk: ſome thought that as he who would needs ſell a witty ſtory, had loſt all the wit out of it, ſo the Printer has expunged all the Treaſon out of his Paper, and that it was as innocent as when it was pure blank, and in its original white: but others more adviſed, conſidered, that much malignity might lye in a very little room, and therefore we ſcanned and ſifted, and ſearched it over and over again, if peradventure we might diſcover the *Teraphim* hidden among the ſtuff; one of our company ſalved the difficulty thus: That ſome things may be Treaſon *in one Country* (and that reaſonably too) which are not ſo *in another*; as they ſay in a neighbouring Iſland 'tis felony to ſteal a Hen, but not a Horſe. At laſt we all agreed upon this: That *Engliſhmen* were happy, too happy if they knew their own happineſs, who live under a more Southern air, a more temperate

rate climate, where nothing is made a crime but what is ſo; and where penalties are proportion'd to their crimes.

Nevertheleſs it was reſolved to try if we could pick out any Treaſon from this ſhort note, and accordingly we took it into parcels.

1. *I have conſidered the Teſt*] Conſideration cannot be Treaſon, when the matter of it is duty, and weighty too: He that is to ſwear ought to conſider with himſelf whether he may lawfully take it or no, how far it binds, and in what capacity he is to keep it inviolate.

2. *And am deſirous to give obedience as far as I can.*] God himſelf would accept this deſire for the deed it ſelf, he that has a heart univerſally prepared to obey God, and in ſome ſingle particular queſtions, whether this matter be commanded or no, an error it may be, a crime it is not, it has not the will in it, no not by interpretation, if the ignorance be really invincible. *As far as I can* with conſiſtency to my known duty to God; as far as I can with the peace and quiet of my Conſcience. And farther, no Prince will deſire obedience to a poſitive Law; at the worſt, not to have obeyed ſo far as he could in this matter, is made but a *High Miſdemeanour*, not *High Treaſon*, by the Act it ſelf, *To be declared incapable of publick truſt*; and in caſe they ſhall execute any ſuch publick truſt, to be puniſhed with *the loſs of their Movables, and life rent eſcheat*: no penalty that extends to life.

3. *I am confident the Parliament never intended contradictory Oaths.*] And ſurely it's hard to conceive that ſuch an honourable thought of the Parliament ſhould be adjudged Treaſon: I was ready to ſay, I am as *confident* as he, but I am taught more diſcretion, by conſidering what his confidence coſt him: But as confident as the *Earl* is, that they *never intended it*; 'tis not ſimply impoſſible but that they might *commit* as great an errour as that comes to; eſpecially when perhaps they had not at that time conſulted all the numerous, almoſt innumerable Acts that lye unrepealed in their voluminous Statute books; and without ſuppoſal that they intended, they might caſually impoſe an Oath that might interfere either with *it ſelf*, the *Confeſſion of Faith*, or *ſome other Law* of the Realm, without any Impeachment to their wiſdoms.

4. *And therefore I think no man can explain it but for himſelf.*] If the Parliament do not explain it, whilſt they are in being, I know none that can give an Authentick Interpretation; for *cujus eſt condere, ejus eſt interpretari*. The *Law maker* is the only *Law interpreter*; and when Laws are made and interpreted with the greateſt authority, every man in the laſt reſort does and muſt *interpret for himſelf*; for when the Legiſlator has given the ſenſe of his own Law, yet the Subject will and muſt judg whether that ſenſe be agreeable or no; otherwiſe, if he reſolves to ruſh on by implicite faith, and blind obedience, he might with equal honeſty have ſwallowed all without ſuch Interpretation.

5. *And*

5. *And I take it so far as it is consistent with it self, and the Protestant Religion.*] And what hurt can there be in all this, if I should subscribe to *the Bible so far as it is the Word of God?* All that can be supposed as the cause of that limitation is no more but this, that possibly the Translation may be in some places besides the mind of the Penman; or that the errour of the Scribe may have introduced some small errour into some few Copies. However it were severe if a man should be denounced an incorrigible Heretick, for the meer offer of such a restriction; and if this Lord did propound such a limitation, it was but *Abundans cautela*, which hurts not, or ought not to do so.

6. *And I do declare I mean not to bind up my self in my station, and in a Lawful way to wish and endeavour any alteration I think to the advantage of the Church or State.*] As there is no person that is a member of any Church or State, but ought in his capacity to contribute what lyes in his power in a lawful way to the welfare of both; and as this Lord was in a higher capacity (being a member both of the present Parliament, and the *Secret Council*) than many others, so had he far greater opportunities, and advantages of serving both than many, than most others. And because there is no Nation in the world whose Constitutions are so absolutely perfect as not to be capable of Melioration, so it were a foul renouncing of that trust which God and the King have reposed in him, to vow that he will never endeavour to make any alteration for the better. That which is convenient in one age or times, appears very inconvenient in another. As the circumstances of things vary, so may, so ought the Laws; I mean those which are not built upon eternal reasons, common to all Governments. And yet so cautelous was this Earl of giving offence, that he inserted those excellent Clauses, *In my Station, and in a lawful way*; and if it be Treason in such a manner *to endeavour an alteration for the advantage of Church or State*, there's no honest way to vote in Parliament for the repealing of an inconvenient Law, or the bringing in of an useful Statute, without being guilty of High Treason.

7. *And repugnant to the Protestant Religion, and my Loyalty.*] In this Clause he declares he doth not intend to bind up himself (still in his station, and in a lawful way) *to endeavour any alteration that may be repugnant to the Protestant Religion, and his Loyalty*; and why should he, when the end of the said Oath and Test is to secure both? and it would be rigid to interpret a firm adherence to the Protestant Religion, and Loyalty to the Prince, to be High Treason, and to cut his Life shorter for that, to which he is obliged to swear he will adhere *to all the days of his life.*

Lastly, *That he takes this Explanation to be part of his Oath*] is no more than what all Interpretations are; for seeing the *sense* of the Law is the *Law*, the sense of the *Oath* must needs be *part of his Oath.*

The

And admit he *miſtook*, when he took this for a part of his Oath, every *Miſtake* is not Treaſon; and 'tis pity this ſhould be ſo. And yet to clear him of any intention of High-Treaſon in this Explanation, there needs no more than this; It muſt for ever render the Council inexcuſable before God and all the World; that if they knew that every interpretation of an Oath, made by a private Perſon for his own truce was indeed Treaſon; that they did not timouſly ſtop him, and ſhew him the danger he was in, if he ſhould proceed in his begun reſolution? But it's more than probable, they knew as little of High-Treaſon in ſuch an Action as the Earl himſelf, till ſome State-Lawyers, to gain Repute, told them how to ſqueeze Treaſon out of Innocency, and make Loyalty it ſelf Criminal.

CHAP. IV.

Of the Explanatory Act of the Secret Council.

IT increaſes the wonder of all men, that the Earl of *Argyle*'s Explanation of the Teſt ſhould be found High-Treaſon; when the *Secret Council* (a Parliament, that very Parliament were ſtill in Being) did the ſame thing, in the general, without thoſe qualifying Reſtrictions of endeavouring in ones *Station*, and in a *lawful way*: but becauſe that of the Council carries a greater face of Authority, I ſhall refer the Reader to it, as we have it from the Publick Gazette, of *Nov.* 21. 1681.

Edinburgh, Nov. 3.

His Majeſties Privy Council here have made the following Act concerning the TEST.

FOraſmuch as ſome have entertained Jealouſies and Prejudices againſt the *Oath* and *Teſt* appointed to be taken by all Perſons in Publick Truſt, Civil, Eccleſiaſtick, or Military, in this Kingdom, by the Sixth Act of his Majeſties Third Parliament, as if thereby they were to ſwear to every Propoſition or Clauſe of the Confeſſion of Faith therein mentioned, or that Invaſion were made by it upon the Intrinſick Spiritual Power of the Church, or Power of the Keys; or as if the preſent Epiſcopal Government of this National Church by Law Eſtabliſhed, were thereby expoſed to the hazard of Alteration or Subverſion; all which are far from the Intention or Deſign of the Parlia-

ments impoſing this *Oath*, and from the Genuine Senſe and Meaning thereof: Therefore his Royal Highneſs, His Majeſties High Commiſſioner, and the Lords of the Privy Council, do allow, authorize and impower the Arch-Biſhops and Biſhops, to adminiſter this *Oath* and *Teſt* to the Miniſters in their reſpective Dioceſſes, in this expreſs Senſe, as the Senſe of the Parliament.

1. That though the Confeſſion of Faith ratified in Parliament, 1567. was framed in the Infancy of our Reformation, and deſerves it's due Praiſe; yet by the *Teſt* we do not ſwear to every Propoſition or Clauſe therein contained, but only to the True Proteſtant Religion founded on the Word of God, contained in that Confeſſion as it is oppoſed to *Popery* and *Phanaticiſm*.

2. That by the *Teſt*, or any Clauſe therein contained, no Invaſion or Incroachment is made or intended upon the Intrinſick Spiritual Power of the Church, or Power of the Keys, as it was exerced by the Apoſtles, and the moſt Pure and Primitive, in the firſt three Centuries after Chriſt, and which is ſtill reſerved intirely to the Church.

3. That the *Oath* and *Teſt* is without any Prejudice to the Epiſcopal Government of this National Church, which is declared by the firſt Act of the ſecond Seſſion of his Majeſties firſt Parliament, to be moſt agreeable to the Word of God, and moſt ſuitable to Monarchy, and which upon all Occaſions, his Majeſty hath declared he will inviolably and unalterably preſerve. And do appoint the Arch-biſhops and Biſhops to require the Miniſters in their reſpective Dioceſſes, with their firſt Conveniency, to obey the Law in Swearing and Subſcribing the foreſaid *Oath* and *Teſt*; with Certification, that the Refuſers ſhall be eſteemed Perſons diſaffected to the Proteſtant Religion, and to his Majeſties Government; and that the Puniſhment appointed by the foreſaid ſixth Act of his Majeſties third Parliament, ſhall be impartially, and without Delay, inflicted upon them.

Whether by the Laws of *Scotland*, *the Lord Commiſſioner* and the Lords of *the Privy Council*, have Power to *authorize the Arch-biſhops and Biſhops to adminiſter the Oath and Teſt in the expreſs Senſe* there declared, is none of my Province to enquire; nor, is it poſſible to give my ſelf or others Satisfaction in the Point, without an exact Inſpection into the Laws of the Realm, which I pretend not unto: yet, ſome things may be noted in the ſaid Act of Explanation, which are worthy our Obſervation.

1. The Preamble of the Explanatory ſuppoſes, *that ſome have entertained Jealouſies and Prejudices againſt the ſaid Oath and Teſt*: And, the Sup-

Suppoſition is not without Ground; for, ſome *whole Synods*, ſome of the moſt eminent *Clergy-men*, and, if I be not miſinformed, ſome of the *Biſhops* (at laſt or firſt) have ſcrupled it: And among others, it was the Unhappineſs of the Earl of *Argyle* to be one.

2. It appears hence, that their Lordſhips were not ignorant of *thoſe Jealouſies* that were got into Mens Heads, and that many of the Kings very good Subjects were in that Number, whom their Honours were willing to gratifie, to condeſcend to their Weakneſs by an Interpretation, which accordingly they did by this their Act.

3. That theſe Scruples were of ſeveral Natures, ſome upon one Account, ſome upon another; to which, they apply themſelves ſuitably, as the Difficulty required: and yet, that none of thoſe under Conſideration, were thoſe made by the Earl of *Argyle*.

4. One of theſe Jealouſies was *as if they were to ſwear to every Clauſe or Propoſition of the Confeſſion of Faith therein mentioned*; which the Council clears by this Anſwer, *That though the Confeſſion of Faith ratified in Parliament, 1567. was framed in the Infancy of our Reformation, and deſerves its due Praiſe, yet by the* Teſt, *we do not ſwear to every Propoſition or Clauſe therein contained, but only to the True Proteſtant Religion, founded in the Word of God, contained in that* Confeſſion, *as it is oppoſed to Popery and Fanaticiſm.*

5. Let it be obſerved, that herein we have, 1. a *Scruple*. Some it ſeems, in *Scotland*, ſtumbled at it, that they were obliged *to ſwear to every Clauſe and Propoſition in the Confeſſion*: But, who ſhould theſe be that made this Objection? *The Proteſtants*, who formed, and firſt compoſed the Confeſſion, never queſtioned, never ſcrupled Subſcription to the whole; it was that which from the beginning of the Reformation, they contended for, they triumph'd in as their Glory; and it was enacted, that whoever *oppoſed it* ſhould *not be taken for Members of their Church*: But the Papiſts indeed, always from the Beginning to this Day, abhorred it, refuſed Subſcription, except ſuch as by their Confeſſors had an Indulgence to ſubſcribe any thing to ſerve the Papal Intereſt. 2. We may further obſerve, what Proviſion is hereby made for *Popiſh Tender Conſciences*, which is laid down, 1. *Negatively*. That *by the* Teſt *we do not ſwear to every Propoſition or Clauſe therein contained*. Not to *every Clauſe?* Then to *how many*, to *how few?* To *which Clauſes* are they bound to ſwear? We find no Number of Clauſes expreſs'd, which are to be ſworn to, which are not: and the Papiſts will doubtleſs be indulgent enough to themſelves, and ſwear to very few that touch'd their beloved Principles: ſo that the Papiſts have now an Explanation as will make the Teſt as eaſie as they can

desire. 2. *Affirmatively.* We are to swear *to the True Protestant Religion therein contained, founded on the Word of God, as it is opposed to Popery and Fanaticism.* But, this leaves all at Uncertainties: for, 1. whence is the *Test* of *Popery* and *Fanaticism?* Some will make *all things* to be Popery; and some, *Nothing*; some will make *all things* Fanaticism, and some will make *Nothing* so: So that to swear to the Confession so far only as it is opposed to these, is to swear to *every thing*, or *nothing*. 2. To swear to the Confession so far *as 'tis founded on the Word of God*, is to swear what every Man will swear: A Papist will swear to *Protestantism* thus far; for, he has a twofold Word of God, a *written*, and *an unwritten Word* of God; he has a *Scriptural* and a *Traditional* Word; he's not such a Fool, as to exclude himself from Honours, Offices, Preferments, for a silly Word, called *Protestantism*; let him be obliged to swear no farther to it than as 'tis agreeable to God's Word, and he will be contented, if he be not distracted: and so will a Protestant subscribe to the Council of *Trent*, so far as 'tis agreeable to the Word of God. 3. This Comment destroys the Text; it overthrows what it designed, or pretended to design; it pretends to secure the *Protestant Religion*, which Protestant Religion, is contained in *the Confession of Faith*; which Confession of Faith, is supposed to *be founded on the Word of God.* But now comes the Explication, and tells us, we are not obliged to subscribe to every Clause, to every Proposition, but only to the True Protestant Religion, founded in the Word of God, contained in the Confession; whereas the *Confession* is the *Touch-stone*, the *Test* the Standard of the Protestant Religion, as owned ever since the Reformation of the Church of *Scotland.* 4. All that are called Christians, of whatever denomination, will pretend that their Religion is founded on the Scriptures, onely they differ in the Explication thereof: to prevent which Evil, the first Reformers in *Scotland*; (and so in *England* too) labour'd to reduce the Principles of Religion contained in the Scriptures to a *certainty*: which that they might do, they drew up the Heads of their Faith into certain *Articles*, which they own as their Belief from Gods Word: But now comes this lax Interpretation, and not insisting upon the truth of the National Confession of Faith; they enjoyn men to swear to it, not as supposing it consonant to God's Word, but so far as it is so: and therefore not *all Clauses*, not *all Propositions*, are owned to contain sound Doctrine, but such as are founded on the Word: and yet *which they are*, they prudently conceal, and leave us to our own liberty to pick and chuse out which we please, for ought can be seen to the contrary.

6. The

6. The other two *Scruples* are ſuppoſed to be made by the Prelatiſts, and the Superiour Clergy, and how the Anſwer ſerves and ſatisfies their Pretenſions; as I do not know, ſo I ſhall not give my ſelf the trouble to enquire: only, where we may ſuppoſe the Kingdom of *Scotland* to contain in it three ſorts of Perſons, Firſt, Papiſts; Secondly, High-flown Prelatiſts; Thirdly, the old Breed of the firſt Reformers; Here are *Salvo's* for the *firſt* and *ſecond* ſort, but no regard had to the *old Proteſtants* of the *firſt Edition*: but ſuch a temper found out to let in the *former*, but quite to exclude the *latter*: of which ſort, if we could ſuppoſe the preſent Earl of *Argyle* to be, we may then ſee a ſufficient ground why he could not acquieſce in the Explication of the Council, being framed for other Intereſts; and a Reaſon why it was abſolutely neceſſary he ſhould explain himſelf, conſonant to the true and genuine meaning of the Teſt, which before that other forced and violent interpretation of the Council, he had not been neceſſitated to do. And the conſeqnence of this Interpretation will be this, That palliated Papiſts will creep hereby both into Church and State; when many conſcientious Proteſtants of the old ſtamp will be for ever excluded.

CHAP. V.

Of the Charge or Indictment of High-Treaſon *preferred againſt* Archibald *Earl of* Argyle.

WE have not hitherto, by any Induſtry of our own, aſſiſted by our mere Mother Wit, been able to diſcover the High-Treaſon that may be ſuppoſed to lie hid in that Explication of the *Teſt*, which he gave in to the *Privy Council*; it remains that we now inform our ſelves from more prying Eyes: For, the States-men and great Lawyers of *Scotland*, who ſhould beſt underſtand their own Statutes, have, by comparing the *Fact* with the *Law*, diſcovered not only Treaſon, but many Treaſons in that paper; and therefore, to the Indictment or Charge it ſelf, I ſhall remit the Reader.

A True.

A True Copy of the Indictment which is preferred againſt Archibald *Earl of* Argile, *for High-Treaſon, who is to be tryed on* Monday *the* 12*th. Day of this Inſtant* December, 1681. *as it was taken from the Original Records.*

ARchibald Earl of *Argile*, you are Indicted and Accuſed, That albeit by the Common Law of all well governed Nations, and by the municipal Laws and Acts of Parliament of this Kingdom, and particularly, by the 21 cap. Stat. 1. *Rot.* 1. and by the 43 Act of Parl. 2 *Jac.* 1. and by the 83 Act of Parl. 5 *Jac.* 6. and the 134 Act Parl. 14 *Jac.* 6. and by the 204 Act Parl. 8 *Jac.* 6. all Leiſing-makers, and Sellers of them, are puniſhable with tinſel of Life and Goods; Likewiſe, by the 7 Act Parl. 7 *Jac.* 6. it is Statute, That no man interpret the Kings Statutes otherwiſe than the Statutes bear, and to the Intent and Effect that they were made for, and as the Makers of them underſtood; and whoſo does to the contrary, to be puniſhed at the Kings Will. And by the 1 Act Parl. 1 *Jac.* 6. it is Statute, That none of his Majeſties Subjects preſume to take upon-hand publickly to declare, or privately to ſpeak, or write any purpoſe of Reproach againſt his Majeſties Perſon, Government, or State; or to deprave his Laws and Acts of Parliament, or miſconſtruct his Proceedings, whereby any miſliking might be moved betwixt his Highneſs, his Nobility, and his Loving Subjects in time coming, under pain of Death, certifying them that do on the contrary, they ſhall be reputed as ſeditious and wicked Inſtruments, Enemies to his Highneſs, and the Commonweal of this Realm; and the ſaid pain of Death ſhall be executed againſt them with all Vigour, to the Example of others. And by the 2 Act Seſſ. 2. Parl. 1. *Car.* 2. it is Statute, That whoever ſhall by Writing, Libelling, or Remonſtrating, expreſs, publiſh or declare any Words or Sentences to ſtir up the People to the diſlike of his Majeſties Royal Prerogative and Supremacy in Cauſes Eccleſiaſtical, of the Government of the Church by Archbiſhops and Biſhops, as it is now eſtabliſhed by Law, under the pain of being uncapable to exerciſe any Office, Civil, Eccleſiaſtical

ſtical or Military, within this Kingdom, in any time coming; Likewiſe, by the fundamental Laws of this Nation, and by the 138 Act Parl. 8 *Jac.* 6. it is declared, That none of his Majeſties Subjects preſume or take upon hand to impugne the Dignity and Authority of the three States of Parliament, or to procure Innovation or Diminution of their Power and Authority, under the pain of Treaſon; and it is much more Treaſon in any of his Majeſties Subjects to preſume to alter Laws already made, or to make new Laws, or add any part to any Law by their own Authority, that being to aſſume the Legiſlative Power to themſelves, which is his Majeſties beſt and moſt incommunicable Prerogative. Yet, true it is, that albeit, His Sacred Majeſty did beſtow upon you the ſaid *Arch.* Earl of *Argile*, theſe vaſt Lands, Juriſdictions, and Superiorities, juſtly forfeited to his Majeſty, by the Crimes of your deceaſed Father, preferring your Family to theſe, who had ſerved his Majeſty in the late Rebellion againſt it; but alſo pardoned and remitted to them the Crimes of Leiſing, Making, and Miſconſtructing of his Majeſty and the Parliaments proceedings againſt the very Laws above-written, whereof you were found guilty, and condemned to die therefore, by the High Court of Parliament, *Anno* 1662. And raiſed you to the Title and Dignity of an Earl, and of being a Member in all his Majeſties Juriſdictions. Notwithſtanding of all theſe and many other Favours, to you the ſaid *Arch.* Earl of *Argile*, being put to the Lords of his Majeſties Privy Council, to take the *Teſt* appointed by the Act of the laſt Parliament, to be taken by all perſons in publick Truſt; inſtead of taking the ſaid *Teſt*, and ſwearing the ſame in the plain Senſe and Meaning of the Words, without Equivocation, Mental Reſervation, or Evaſions whatſomever, you declare againſt, and defame the ſaid Act; and having to the end you might corrupt others by your pernicious Senſe, drawing the ſame in a Libel, of which Libel, you diſperſed, and gave abroad Copies, whereby Evil Example was given to the Kings Proceedings, at a Time eſpecially, when his Majeſties Subjects were expecting that Submiſſion ſhould be given to the ſaid Teſt; and being deſired the next Day, to take the ſame as one of the Commiſſi-

missioners to his Majesties Treasury, then did give in to the Lords of his Majesties Privy Council, and owned twice in plain Judgment before them, the said defamatory Libel against the said *Test* and Act of Parliament, declaring that ye had considered the said *Test*, and was desirous to give Obedience as far as ye could, whereby ye clearly insinuate, that ye were not able to give full Obedience.

In the Second Article of which Libel, ye declare that ye are confident that the Parliament never intended to impose contradictory Oaths whereby to abuse the People with the Belief, that the Parliament had been so impious as really and actually to impose contradictory Oaths, and so ridiculous as to have made an Act of Parliament (which should be most deliberate of all Humane Actions) quite contrary to their own Intentions; after which, ye subsumed, contrary to the nature of all Oaths, and to the Acts above-cited, that every Man must explain it for himself, and take it in his own Sense; then the Oath is imposed to no purpose; for, the Legislator cannot be sure that the Oath imposed by him will bind the Takers according to the Design and Intent for which he appointed it, and the Legislative Power is taken from the Imposer, and setled upon the Taker of the Oath, and so he is allowed to be the Legislator, which is not only an open and violent depriving of his Majesties Acts of Parliaments, but is likewise a settling of the Legislative Power upon private Subjects, who are to take such Oaths.

In the Third Article of the said Paper, you declared, That ye take the *Test* in as far only as it is consistent with it self and the *Protestant Religion*; by which, you maliciously intimate to the People, that the said Oath is inconsistent with it self and the *Protestant Religion*, which is not only a down-right depraving of the said Act of Parliament, but is likewise a misconstructing of his Majesty and the Parliaments Proceedings, and a misrepresenting to the People in the highest degree, and in the tendereſt Points wherein they be concerned, and implying that the King and Parliament have done things inconsistent with the *Protestant Religion*; for securing of which, that *Test* was particularly invented.

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In the Fourth Article you expresly declared, That you mean not by taking the said Test, to bind up your self from wishing or endeavouring any Alteration that ye shall think for the Advantage of the Church or State: whereby, although it was designed by the said Act of Parliament and Oath, That no Man should endeavour any Alteration of the Government, either in Church or State, as it is now established; and the duty of all good Subjects in humble manner to obey the present Government; yet you not only declared your self, but by your Example invited others to think themselves loosed from that Obligation, and that it is free for them to make any Alteration in either, as they think fit, concluding your whole Paper with these Words, [*And this I understand as a part of my Oath*] which is not only an Invasion upon the Legislative Power, as if it were lawful for you to make to your self any Act of Parliament, since he that can make any part of an Act, can make the whole Power and Authority in both, being the same; Of the whilk Crimes above-mentioned, you the said *Archibald* Earl of *Argile*, are notar, art and part, whilk being found by Assize, you ought to be punished with Pains of Death, Forfeiture of Life, Lands, and Escheat of Goods, to the Terror of others to do and commit the like thereafter.

Here follows a List of the Assizers, or Jurors.

Marquess of Montrose.
Earl of Linlithgow.
Earl of Wintone.
Earl of Strathmore.
Earl of Roxbrough.
Earl of Haddingtone.
Earl of Drumfrice.
Earl of Arlie.
Earl of Marr.
Earl of Hume.
Earl of Pearth.
Earl of Dunfermling.
Earl of Dalhousi.
Earl of Suthesk.
Earl of Treddel.
Earl of Midletown.
Lord Ross.
Lord Elibank.
Lord Dunkel.
Lord Livingstone.
Lord Sinkler.
Lord Lindoors.
Lord Rollo.
Lord Brunsilard.
Laird Putie.
Laird Lesmore.
Laird Hall-yeards.
Laird Hilltown.
Laird Ormestown.
Laird Touch.
Maister of Bamirinock.
Maister of Ross.
Maister of Burly.
Laird Gosford.
Sir *Robert Daliel of Glennel.*
Laird Ballymain.
Laird Parck Gordon.
Sir *Will. Nicolson* of that *Ilk.*
Laird Lamingtown.
Laird Claverhouse.
Laird Longformegoun.
Mr. *Cransis Magomrie*, Brother to the *Earl of Eglington.*
Maister of Sallmirinoch.
Sir *Andrew Kansy of Abirshall.*
Laird Haning.
Laird Gredden-kar.
Laird Londine.
Sir *William Paterson.*

The Names of the Witnesses.

Pat. Menzies. Lord Register. *Hugh Stivingson, &c.*

Here follows the Explanation of the TEST.

I Have considered the *Test*, and am very desirous to give Obedience so far as I can; I am confident the Parliament never intended to impose contradictory Oaths, and therefore I think no man can explain it but for himself, and reconcile it as it is genuine and agrees in its own sense; and I take it in so far as it is consistent with it self, and the *Protestant Religion*: And I do declare, I mean not to bind up my self in my Station, and in a Lawful way, to wish and endeavour any alteration I think to the advantage of *Church* or *State*, and repugnant to the *Protestant Religion*, and my *Loyalty*: and this I understand as a part of my Oath.

The day of Compirance, 12th *of* December, 1681.

This dreadful *Charge* we see has found out the Treasons, which to us had been for ever a *Terra Incognita*: Of which I shall say little, not doubting but the Earl and his Counsel will say the more: only we may make some obvious Remarks as we go along, that the Paper may not seem utterly desolate, and uninhabited.

And first, We have a recital of sundry Laws and Statutes upon which the Indictment is grounded, and contrary to which the Offences laid to his charge, are said to be committed. One Act tells us, "That all "Leising-makers, and sellers of them, are punishable with Tinsel of "Life and Goods. Another, "That whosoever interprets the Kings "Statutes otherwise than the Statutes bear, and to the intent and effect "that they were made for, and as the makers of them understood, shall "be punished at the King's Will. Another, "That whosoever shall "reproach his Majesties Person, Government, or State, or deprave his "Laws and Acts of Parliament, or misconstrue his Proceedings, whereby "misliking might be moved between his Highness, his Nobility, and "his loving Subjects, shall be guilty of Death. Another, That "whoever, by Writing, libelling, or Remonstrating, shall publish any words "to stir up dislike of his Majesties Royal Prerogative in Causes Ecclesiastical, of the Government of the Church by Arch-bishops and Bishops, "as now established by Law, shall be incapable to exercise any Office, "Civil, Ecclesiastical, or Military. Another, That whoever presumes "to impugn the Dignity or Authority of the Three Estates in Parliament, or to procure Innovation, or Diminution of their Power and "Authority, shall be liable to the pain of Treason. Further, it is asserted, (but not Statute-cited) "That it is much more Treason to presume

"so,

"to alter Laws already made, or to make new Laws, or add any part "to any Law by their own Authority.

2. In the Charge we find a Rehearsal of the *Vast-lands, Jurisdictions, and Superiorities bestowed upon the said Earl by his Majesty.* But this cannot easily be construed into High-Treason, in a well-composed and settled Government, although true it is, that *great Estates* have sometimes made their Owners *criminal*; and to be *Rich* has of old been to be Guilty.

3. We have the comparing of the Earl's *Facts* with the several *Laws* recited, that so it may appear that his Acts are Treasonable, and his Person to suffer as a Traytor.

1. He is charged to have "defamed the Act of Parliament, and to "have drawn his Defamation into a *Libel*, to the end he might cor-"rupt others by his pernicious Sense, and to have dispersed, and to "have given abroad Copies thereof, whereby evil Example was given "to the Kings Proceedings. That he gave in to the Lords of the Coun-"cil the said Libel, and owned it twice in Judgment, and that he de-"clared, he had considered the *Test*, and that he was desirous to give "Obedience as far as he could: Whence he is charged to have clearly "insinuated, that he could not give full Obedience.

It is an unusual thing to have *insinuations*, (though fancied never so *clear*) screwed up to High-Treason; seeing these Insinuations may be only *taken* unjustly, and never *given*: but that an insinuation that a man cannot give *full obedience* to every thing that is commanded by a Law, should be Treason, is beyond all degree of admiration, seeing that all the Papists in *Scotland*, (not to mention the Lord Commissioner himself) do give more than *clear insinuations*, even plain and positive profession, that they cannot give full obedience to all the Laws, and it were well if they were but half so Loyal as the Earl, and were *desirous to give obedience as far as they can*: but it is far otherwise; they totally refuse to subscribe *the Confession* (though with the late Explanation, I suppose, they will not stick at it) they refrain from the Publick Worship established by many expres Laws, and yet they are not prosecuted as Traytors.

But though this be called a *Libel*, I can see nothing but Modesty and Loyalty in it, being qualified with those words, which the Charge omits, *viz. to endeavour in his station, and in a lawful way*, such Alterations as might be repugnant to his Loyalty. And if it had been a Libel, why was it so freely received, when he offer'd it first in the Council? It was accepted and entertain'd, and his Oath given to him with that Explanation, only it was rejected the next day, when he was called upon to

take it again in another capacity, *viz.* as one of the Lords Commissioners of the Treasury: It is strange it should grow Treason in twenty four hours. Besides, the Law requires not (that I can find) that a Person who stands in many Capacities, should take the Oath many times; for if the Person be once obliged in Conscience, he is obliged in *every Capacity* to the discharge of his Oath. Nor could his shewing to his Friends the Copy of his own Explanation, which the Council had accepted, be reasonably interpreted a publishing of a Libel, seeing it was only to shew the Grace and Indulgence of their Lordships to himself, which could be no Defamation, but a Commendation of the Tenderness of the Government.

2. He is secondly charged with declaring, that he was "confident "that the Parliament never intended to impose contradictory Oaths: and the Inference drawn thence is, that "hereby he abused the People "with the belief that the Parliament had been so impious as really and "actually to impose contradictory Oaths, and so ridiculous, as to have "made an Act of Parliament (which should be most deliberate of all "Humane Actions) quite contrary to their own Intentions.

I cannot tell by what Logick or Law this Inference is deduced from these Premises. The Earl is *confident they never intended Contradictions*, therefore he supposes there were *actual Contradictions*: no such matter: but therefore it will follow, that where an Act is penned *dubiously*, it must be so interpreted, as to *avoid contradictions*, which is a Civility due to all Humane Constitutions, which dare not pretend to Infallibility.

It is true, that *Acts of Parliament should be the most deliberate of all Humane Actions*, they *should* be so, *de jure*, but are not always so *de facto*; *Humane frailty* must be acknowledged in the midst of the most *exact Deliberations*: And if the Charge asserts, that they *should be most deliberate*, it will not prove they ever are *so*; Passion is very dimsighted, and often huddles up things in great haste and disorder; men may be so zealous to reach the End, that they may stumble at the Means; and that that Parliament, of whose Honour we are tender, might suffer something of Humanity, is evident, in that when all was done, the Privy Council was forced to help them over the obscure Stile, and interpret it so, that it should rather carry a contradiction to the *Protestant Religion* than to *it self*. Nor is it a Supposition of the Parliaments *Impiety*, but a bare admission of their *Non-infallibility*, to have imposed some things that carry a seeming contradiction to themselves, or to some other Law equally in Being, and Force with that: *Impiety* affects the *Will*, which may be good, when

when the iſſues of the *Underſtanding* are weak: There is no Artiſt whatever, that always acts up to his Principles and Deſigns; and the Architectonical may come ſhort in its operations; Practiſe ſeldom comes up to its Rules, and other Nations (as wiſe as that) have ſeen Reaſon to make *Explanatory Acts* to interpret the ill wording of the former.

3. He is charged to have *ſubſumed, contrary to the nature of all Oaths, and to the Acts above-cited, that every man muſt explain it for himſelf, and take it in his own ſenſe.* This branch of the Charge hath in it matter of *Divinity*, and matter of *Law*. 1. Of *Divinity*. That for a man to *explain an Oath himſelf, and to take it in his own ſenſe, is contrary to the nature of all Oaths.* But firſt, I humbly conceive, that this is not univerſally true; for if a Perſon ſhall tender his own ſenſe, and the Authority who is to adminiſter the Oath do accept his ſenſe, he then is obliged in that ſenſe and no other: And if the Council had refuſed to accept his own Interpretation, no doubt he had refuſed the Oath, which had not been High Treaſon, but only a diſcharge from Publick Truſt, Offices and Employments. Secondly, 'tis ſo far from being true, that 'tis not poſſible for a man to take an Oath lawfully and conſcientiouſly, but he muſt take it in a ſenſe that is ſome way or other his own; for if the *ſenſe* of the *Oath* be not made his *own* before he takes it, he ſwears without *Knowledge* and *Judgment*, and then 'tis no matter whether he take it in any ſenſe at all or no: let him but wink hard and ſwear, 'tis well enough.

2. We have here alſo matter of *Law*; 'tis ſaid to be *contrary to the Acts above-cited*: Let the Lawyers diſpute that; all that I can find is, that no man ſhall put a ſenſe upon any Law that ſhall bind another, or be the Publick Senſe of the Law to all the Subjects, which, whether it reach the Earl of *Argyle* or no, or ſome others that have preſumed to impoſe ſuch a General Senſe, is not my task to examine: yet thus much I conceive is reaſonable, that any man may offer his doubts to the Authority before whom he is to ſwear, or ſubſcribe; if they accept his Solution of them, and that not diſagreeing to the Letter of the Oath, he may take the Oath in that accepted Senſe, at leaſt, there's no Maxim of common Reaſon to the contrary.

4. An evil Conſequence is charged upon the Earl's practiſe in the laſt particular; *viz.* That *then the Oath is impoſed to no purpoſe, for the Legiſlator cannot be ſure that the Oath impoſed by him will bind the Takers according to the Deſign and Intent for which he appointed it*: Nay rather, the *Legiſlator* cannot be *ſure* that the Oath is taken according to his Deſign, unleſs the Taker declares that he takes

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it in his ſenſe: And again, if the Oath be doubtful, and may have many Interpretations, there's no way to ſecure the Legiſlator that the Taker receives it in his ſenſe, without the moſt explicit Explanation of his meaning: How ſhall the Legiſlator be ſure that the Oath is taken in *his ſenſe*, when the dubious drawing of the Oath makes it uncertain what is the *Legiſlator's ſenſe*: Laws can never hold Equivocators and mental Reſervers; they are the only men whom he can be ſure of, who will deal fairly, and above board, and let him know, thus far he may be ſure of me, thus far will I ſwear, and no farther: Nor can it be ſaid, that *Oaths are to no purpoſe*, if they be not to *all purpoſes*; for they never ought to be uſed to *evil purpoſes*, to inſnare men, to halter their Conſciences, or ſlip dubious Oath over their Heads, and then tell them, So now we have you hard and faſt, you are bound farther then you dream'd of, you muſt do thus and thus or be perjured.

5. A further aggravating conſequence is, That hereby *the Legiſlative Power is taken from the Impoſer, and ſetled upon the Taker of the Oath, and ſo he is allowed to be the Legiſlator; which is not only an open, and violent depriving of his Majeſties Acts of Parliament, but is likewiſe a ſetling of the Legiſlative Power upon private Subjects, who are to take ſuch Oaths*: This is the Reaſoning of men who live very remote from the Sun, and too near the Arctick Circle. For 1. the Judgment which the Swearer uſes, is nothing but that of *diſcretion for himſelf*, not of *Legiſlation for others*. He that takes an Oath in that which he judges the true ſenſe, does not impoſe his Senſe upon the whole Nation: the former is his Perſonal Priviledge, the latter peculiar to the Legiſlator: If the Earl of *Argyle* had ſaid, I take the Oath in this ſenſe, and I command all men whatever to take it in the ſame ſenſe I have hereby impoſed, there had been ſome colour for this Imputation.

And if it be true, *to explain an Oath be to ſettle the Legiſlative Power in him that explains it*, then it is moſt evident, that the Secret Council have arrogated to themſelves the Legiſlative Power, who have (not as the Earl of *Argyle* interpreted it, each for himſelf, but) impoſed a ſenſe in which all Arch-biſhops and Biſhops are bound to adminiſter it, and ſuch a ſenſe too as plainly ruines the Confeſſion of Faith, the old Standard of Proteſtancy in *Scotland*, and therefore may be preſumed contrariant to the meaning of the Parliament, who in their *Teſt* deſigned the Confirming and Eſtabliſhing of the Proteſtant Religion, as profeſſed in the Confeſſion.

6. It is charged on the Earl, That he declares, he takes the Oath *ſo far only as it is conſiſtent with it ſelf and the Proteſtant Religion*. In which Charge, the word (*only*) is added, which I find not in the Earl's: and that is a word of great Importance: for as the Earl's words lie, I take it

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in ſo far as it is conſiſtent with it ſelf and the Proteſtant Religion, may bear no worſe ſenſe than this, If the *Teſt* be *throughly* conſiſtent with both theſe, then I take it *throughly*: which does not neceſſarily ſuppoſe any inconſiſtency: and if there be a *Suppoſition*, I hope an *Hypotheſis* is not High-Treaſon: but the word (*only*) added in the Charge implies, a Suppoſition of ſome actual inconſiſtency with it ſelf, or the Religion; ſo that herein the Charge has either invidiouſly repreſented, or injuriouſly corrupted the words of the Earl. And I hope this Charge or Indictment is not eſtabliſhed by Act of Parliament, but that it may be lawful to examine it.

There is yet ſomething further, and perhaps more material to be obſerved, namely, that the Earl deals no otherwiſe with the *Teſt*, than the Privy Council deals with the *Confeſſion of Faith*, in which nevertheleſs the *Proteſtant Religion* is as much concerned as in the *Teſt*. The Council declare, That *by the Teſt we do not ſwear to every Clauſe therein* (the Confeſſion) *contained, but only to the True Proteſtant Religion*, &c. If then it be lawful to ſwear to the *Confeſſion* ſo far *only* as 'tis agreeable to the Proteſtant Religion and the Word of God, 'tis equally lawful to ſwear to the *Teſt* ſo far *only* as 'tis agreeable to the Proteſtant Religion: Nay, the Earl is more ſparing, in leaving out the Word *Only*, which the Council has added in their Declaration, and the Indictment ſuper-added to the Earl's.

7. The Indictment proceeds with an Inference from this laſt Clauſe of the Earl's Explanatory. That it is *a down-right depraving of the Act of Parliament, and likewiſe a miſconſtruing of his Majeſty and the Parliaments Proceedings, and a miſrepreſenting to the People, in the higheſt Degree, and in the Tendereſt Points wherein they be concerned; and implying, that the King and Parliament have done things inconſiſtent with the Proteſtant Religion.*

Which part of the Charge is drawn very ſtrangely, *It is a down-right* depraving——*Implying*——that is to ſay, that what a man ſays by *Implication and indirectly*, he ſpeaks *down-right and directly*. But, if the Words be not ſtrained, and diſtorted from their plain and genuine Meaning, there is neither *down-right* nor *implicite* Depravation of the King or Parliament, of their Intentions, Proceedings, or otherwiſe: For, all theſe hard Conſequences are much more applicable to the Declaration of the ſecret Council, and not eaſily applicable to that of his Lordſhip's, without Implications, Inferences, Deductions, which it is not poſſible to foreſee, or to prevent crafty Lawyers from making. The Charge confeſſes, That *the Teſt was intended for the ſecuring of the Proteſtant Religion*. As far as the Teſt anſwers, that End which may be (for ought the Earl has ſaid to the contrary) *entirely* and *throughly*, ſo far he takes

takes it, that is *entirely* and *throughly*; but so far as any thing answers *not the End* for which it is *invented*, so far it's no *Meane*, and so far of *no Use*; for 'tis the End that gives Dignity and Value to the Means. Now, as the Council hath interpreted the Test, it's no Means to secure the Protestant Religion: For, what is that Protestant Religion which is designed to be secured? and where may we find it? If it be said *in the Word of God*; That's true: but it's as true too, that all Religions will pretend to be found there: If it be said *in the Confession*, the Councils Explanation expresly tells us, That the Test requires us *not to swear to every Clause or Proposition therein*; and 'tis as true, that they tell us not to which Clauses we are to swear, and which not: and therefore we are turn'd off to the former Generality, as it lies in the Scripture, which will never secure the Protestant Religion against the Inroads and Inchroachments of Papists and Popery.

8. It is farther charged upon him; That *he means not by taking the said Test, to bind up himself, from wishing and endeavouring any Alteration he shall think fit, for the advantage of the Church or State.* And it cannot be reasonably thought, that any true Subject took it with any other meaning; for no Man when he does a good Work, intends to abridge himself of doing another; and seeing 'tis impossible for the Wit or Fore-sight of man to foresee what may farther emerge necessary to be enacted for the Advantage of Church or State: no man can possibly so tye himself, but that he shall always be at Liberty to do his duty to the Church and State.

But it deserves a Remark, that the Prosecutors here forgot, or else voluntarily omitted, that which would have cleared the Earl's Intentions, namely, that he limits his Endeavours to his *Station* and a *lawful Way*; and if it be Treason to endeavour any Alteration for the benefit of the Church and State in a *lawful way*, and when a man acts *in his Place and Station*, all mens hands are tyed up from prosecuting the true Ends of their Allegiance.

And yet see how unmercifully these Words are aggravated.

"It was designed (saith the Charge) by the said Act of Parliament and the Oath, that no Man should endeavour any Alteration "of the Government either in Church or State, as it is now established: to which I say,

1. If the *Prints* be true this is *not true*: for the Test says, *not* to endeavour any Alteration *in the Government*, either in Church, &c. The Earl's Paper says, *To endeavour any Alteration to the Advantage of Church or State.* The *Charge* says, The Act of Parliament designed, That no Man should endeavour *any Alteration* of the

Of the Government, either in Church or State: Now then, the Teſt it ſelf obliges not againſt an *endeavoring an alteration in the Government*, but *of the Government*: The Earl neither looks upon himſelf as bound to make alteration either *in the Government*, or *of the Government*; But only to endeavor alteration *for the Advantage* of both; and yet the Charge would inſinuate, that he had reſerved to himſelf a latitude and liberty by his Interpretation to make an Alteration *of the Government it ſelf*: There may be ſome Alteration made *in a Government*, which is no Alteration *of the Government*, the ſpecies or kind or Government may continue the ſame, and yet there may be ſome Amendments in particular contrived, but however the Earl reſerves to himſelf a Power only to make Alteration for *the Advantage* of the Government, in Church and State, which may be done, and his ends anſwered without any Alteration *in, or of the Government*. A Houſe may be repaired, a rotten Beam removed, a ſound one inſerted, and yet the Model, the Ground-plat, the Foundation, Walls, Roof continue the ſame.

And therefore the cloſe of the Charge is moſt horrid: *Yet you not only declared your ſelf, but by your Example invited others to think themſelves looſed from that Obligation, and that it is free for them to make any Alteration in either as you think fit*: To which ſurely the Earls *Counſel* would anſwer. 1. That the *Earl* never pretended to be at liberty to make any Alteration *as he ſhould think fit*. But as he thought for *the Advantage* of Church and State; where he does not limit himſelf by *his own thinkings*, but the Churches, and States Advantage, and Benefit: 2. That *he invited others by his Example* to do the ſame, is not cautelouſly ſpoken; ſo he declared *for himſelf*, he explained the Oath *for himſelf*, and for *himſelf only*, and if any other ſhould follow his precedent Example, that is but a contingency, and to be made a Traitor for the contingent Iſſues of a Mans words or actions, *is ſomething*, for which civilized Nations, want a Name. 3. As the Earl is charged with theſe High Crimes, ſo the *Inſtigating Clauſes*, with which he mollified all harſeneſs of expreſſion, and endeavored to prevent miſconſtruction are utterly omitted, as that he would not bind up himſelf in his Station, and in a lawful way to endeavor ſuch Alterations, and that he foreprized out of thoſe Alterations all evil ones, and yeild himſelf to ſuch, and ſuch only as might be for the Advantage of Church and State, and ſuch as were repugnant to his Loyalty (as a Subject) and the Proteſtant Religion (as a Chriſtian.)

(9) The laſt part of the Charge is, that he concluded with theſe words.

[*And this I understand as a part of my Oath.*] Upon which words the Advocate General descants, with great conceit no doubt of his own abilities. *Which* (says he) *is not only an Innovation upon the Legislative Power, as if it were lawful for you, to make to your self any Act of Parliament, since he that can make any part of an Act can make the whole, Power, and Authority in both being the same,* and now we expected a *Butt*. 'Tis *not only* so and so, *but nothing*. Yet if it be *so* though not *else*, it's enough to hang many a Man, but what if it be not so? then her'es a long Charge without matter. But I suspect that Integrity of the Prints, else of the sense of the Acts beyond *Tweed* be no more intelligible than this last Clause, they must either be explained, or never obeyed by any that are not resolved to rush through thick, and thin. He that interpets an Oath, supposes that his Interpretation is *a Part* of the Oath, but not *an additional part*, or a part of his own adding, but such a part as really and in truth is within the Act it self, and only wants some Will and Wisdom to draw it out: The sense of the Law is the Law, for Letters, Syllables, Words, without meaning can be no Law to the Subject, no more than Scotchmen can dance to their own Bag-pipes when they give an indistinct and uncertain Sound: If then the sense, and meaning be obscure, and the Subject shall tell what he thinks in the case, they are either to refuse the sense or accept it, if they accept it 'tis their sense, or rather the sense of the Law, not the private Persons; if they reject it, there is no harm done, but the vexation of a poor Man so not swearing he knows not what.

Chap. 6. *Of the Earl of* Argyles *Tryal, His Speech and Conviction.*

UPon *Monday* the 12*th* of *December* 1681. the Day of his Compearance, the *Lords of Justiciary* being assembled in the Morning, before Ten the Earl was brought to his Pannel, in the first place the Lord *Advocate* produced his Commission from His *Majesty*, and the *Council* for the Prosecution of the said, which (as he said) he resolved to do with the greatest Moderation of Spirit imaginable, the Libel, Charge, or Indictment was then Read, founded on several Statutes, against Leising-making, and misrepresenting the Kings, and Parliaments meanings, as more at large is to be seen in the Indictment it self, to which the Reader is referred: Hereupon the Earl made an Elegant Speech in vindication of himself, wherein

wherein he gives a ſhort Narrative of his Life, his Loyalty, but becauſe we may wrong the Speech it ſelf by our Abbreviation, let the Reader peruſe the Speech it ſelf.

The Speech of the Earl of ARGYLE *at his TRIAL on the 12th, of December 1681.*

My Lord Juſtice General and Remanent Honourable Lords of Juſticiary

I Look upon it as the undoubted Privilege of the meaneſt Subject, to explain his own words in the moſt benign Senſe.

And even when Perſons are under an evil Character, the miſconſtructi. on of words, in themſelves not ill, can only amount to Preſumption or Aggravation, and not a Crime. But it is ſtrangely alledged (as well as impoſſible to make any that knows me believe) that I could intend any thing, but what was honeſt and honourable, ſuitable to the Principles of my Religion and Loyalty, though I did not explain my ſelf at all.

My Lord, pray be not offended, that I take up a little of your time to tell you, I have from my youth made it my buſineſs to ſerve his Majeſty faithfully, and have conſtantly to my power, appeared in his ſervice, eſpecially in all times of difficulty; and have never joyned, nor complied with any Intereſt or Party, contrary to his Majeſties Authority, but have all along ſerved him in his own way, without a frown from his Majeſty theſe thirty years.

As ſoon as I paſſed the Schools and Colledges, I went to travel to *France* and *Italy* in the beginning of the year 1647. and continued abroad till the end of the year 1649.

My firſt appearance in the World, was to ſerve his Majeſty, as Collonel of his Foot-guard; and though at that time all the Commiſſions were given by the then Parliament, yet I would not ſerve without a Commiſſion from his Majeſty, which I have ſtill the Honour to have by me.

After the misfortune of *Worceſter*, I continued in Arms for his Majeſties ſervice, when *Scotland* was over run with the Uſurpers, and was alone with ſome of my Friends in Arms, in the year 1652 and did then keep up ſome appearance of Oppoſition to them by taking ſeveral of the Caſtles they had gariſoned in *Argyle-ſhire*; and taking and killing three hundred of them in one day. After which, I joyned with thoſe his Majeſty

jesty had Commissioned, and stood out to the last, till the Earl of *Middleton* his Majesties Lieuetenant General gave me order to capitulate, which I did without any other engagement to the Rebels, but bail to live peaceably; and did at my capitulating, relieve several Prisoners by exchange, whereof my L. *Granard* out of the Castle of *Edenborough* was one.

Is it not well known that I was imprisoned by the Usurpers, who was so jealous of me, that contrary to their faith, they seized on me, and kept me from Prison to Prison, till his Majesties happy Restauration, only because I would not engage not to serve him, though there was no Oath required?

I do with all Gratitude acknowledge his Majesties Bounty and Royal Favours to me when I was pursued before the Parliament in the year 1662. His Majesty was graciously pleased not to send me down in any opprobrious way, but upon a bare verbal Bail, upon which I came down Post, and presented my self a fortnight before the time; and having satisfied his Majesty at that time, of my entire Loyalty, I did not offer to plead by Advocates, and his Majesty was not only pleased to pardon my life, and to restore me to a Title and Fortune, but to put me in trust in his Service in the most eminent Judicatories of the Kingdom, and to heap Favours upon me beyond whatever I did, or can deserve, though I hope his Majesty hath always found me faithful and thankful, and ready to bestow all I have, or can have, for his Service; and I hope he never had, nor never shall have ground to repent any Favour he hath done me: If I were now guilty of the four Crimes libelled, I should think my self a great Villain.

In the Prosecution of the Story of my Life in the year 1666. when the Rebellion broke out, that was repressed at *Pentland* Hills, upon a bare Advertisement from the now Lord Archbishop St. *Andrews*, without any order either from the Council or General, the intercourse being stopped; did I not bring together about two thousand men, and sent a Gentleman to General *Dalyel*, offering to joyn with him, if the Rebellion had not presently been happily crushed? And when I met with considerable trouble from my Neighbours rebelliously in Arms, and had Commissions both in publick and private accounts, have I not carried dutifully to his Majesty, and done what was commanded with a just Moderation, which I can prove under the Hands of mine Enemies, and by many infallible Demonstrations?

Pardon me yet a few words. Did I not in this present Parliament shew

ſhew my readineſs to ſerve His Majeſty and the Royal Family in aſſerting vigorouſly the Lineal Legal Succeſſion of the Crown, and had a care to have it expreſſed in the Commiſſions of the Shires and Boroughs in which I had intereſt? Was I not for offering proper ſupplies to His Majeſty & his Succeſſor? And did I not concur to bind the Lanlords for their Tenants, though I was mainly concerned? And have I not always kep't my Tenants in obedience to His Majeſty?

I ſay all this not to arrogate any thing to my ſelf for doing what I was in Honour and Duty bound to his Majeſty; But if after all this, upon no other ground, but words that were ſpoken in abſolute Innocence, and without the leaſt deſign, except for clearing my own Conſcience, and that are not capable of the ill ſenſe wreſted from them by the Libel, I ſhould be further troubled, what aſſurance can any of the greateſt Quality, Truſt, or Innocence have, that they are ſecure, eſpecially conſidering, that ſo many ſcruples have been ſtarted, as all know, not only by many of the Orthodox Clergy, but by whole Presbyteries, Synods, and ſome Biſhops, which were thought ſo conſiderable, that an eminent Biſhop did take the pains to write a Treatiſe (which was read in Council, and allowed to be Printed, and a Copy given to me), which contains expreſſions that may be ſtretched to a worſe ſenſe than I am charged for. Have I not ſhewed my Zeal to all the ends of the Teſt? How then can It be imagined, that I have any ſiniſter deſign in any thing that I have ſaid? If I had done any thing contrary to the whole courſe of my Life, which I hope ſhall not be found, yet one Act might pretend to be excuſed by a Habit. But nothing being queſtioned but the ſenſe of words miſconſtrued to the greateſt height, and ſtretched to imaginary inclinations, quite contrary to my ſcope and deſign; and ſo far contrary, not only to my Senſe, but Principles, Intereſt and Duty, that I hope, my Lord Advocate will think he hath gone too far in this Proceſs, and ſay plainly what he knows to be true by his acquaintance with me, both in publick and private, that I am neither *Papiſt* nor *Phanatick*, but am truly Loyal in my Principles and Practice.

The hearing of this Libel would trouble me beyond moſt of the Sufferings of my Life, if my Innocence did not ſupport me, and the hopes of being vindicated of this and other calumnies before this publick and Noble Auditory.

I leave my Defences to theſe Gentlemen that plead for me: They know my Innocence, and how groundleſs that Libel is. I ſhall only ſay,

as

As my Life has been moſt of it ſpent in ſerving and ſuffering for his Majeſty, ſo whatever be the event of this proceſs, I reſolve, while I breathe, to be loyal and faithful to his Majeſty; and whether I live publickly or in obſcurity, my head, my heart, nor my hand, ſhall never be wanting where I can be uſeful to his Majeſties ſervice; and while I live, and when I die, I ſhall pray, that God Almighty would bleſs his Majeſty with a long, happy and proſperous Reign, and that the Lineal Legal Succeſſors of the Crown, may continue Monarchs over all His Majeſties Dominions, and be Defenders of the true Primitive Chriſtian Apoſtolick Catholick Proteſtant Religion, while Sun and Moon endure.

THe Earl gave in to the Court a Letter under the Kings Hand, (if not written wholly with His Majeſties own Hand) wherein His Majeſty declares his great confidence in the ſaid Earl; and another by the Earl of *Middleton* to the ſame effect; *Argyle* deſired they might be recorded, which was not granted, yet it was agreed that they ſhould be read, after this Sir *George Lockart* anſwered the Libel, and for about three hours time laboured to prove the Irrelevancy; alleaging that it was impoſſible that a Mans exonerating of his Conſcience, could be Leaſing-making; or that his declared private meaning, could give Laws to others, and ſo come under the Statute againſt private Mens making Laws to beget miſunderſtanding betwixt the King, and his People. The Kings Advocate, anſwered to his Pleadings, and labored to ſupport and back the Libel; Sir *George Lockart* replyed upon him, and it was thought by many intelligent Perſons there preſent, that he had cleared up matters beyond all poſſibility of a Rejoynder.

Sir *John Dalrimple* made a very excellent Diſcourſe of the Nature of Oaths, thus were matters argued *pro*, and *con* till about nine a clock at night; when all Perſons were diſmiſſed, except the Lords of *Juſticiary*, who ſate till near two a Clock in the Morning, to diſcuſs the Relevancy: upon *Tueſday* in the Afternoon, the Lords declared the Defences Relevant, as to the Earl in reſpect of the Perjury (of which it ſeemes he was alſo indicted) but they rejected all his Defences, Duplies, &c. as to *High Treaſon*, and *Leaſing-making*.

The Kings Advocate then proceeded to the proof of the *Fact*, it was proven that he gave in that Paper; by the Depoſitions of the Clerks of the Council, and the Laird of *Landie*, 'tis reported that two of the *Lords of Juſticiary* diſſented in the Relevancy.

And

And now they proceed to swear the Inquest, being these select Persons, out of 48. that were in the Pannel.

1. Marquess of *Montrose.*
2. Earl of *Linlithgow.*
3. Earl of *Roxborough.*
4. Earl of *Dumfries.*
5. Earl of *Airlie.*
6. Earl of *Perth.*
7. Earl of *Dalhousie.*
8. Earl of *Middleton.*
9. Lord *Sinclare.*
10. Lord *Lindores.*
11. Lord *Brant Island.*
12. Laird *Gosford.*
13. Laird *Ballymain.*
14. Park *Gourdon.*
15. Laird *Cleverhouse.*

The Lord *Justice general*, demanded of the *Earl* if he would prove his defence against the *Perjury*; or if he would Object any thing against the *witnesses* or the *Jurors*: He answered that he had by his Advocates said enough, as he humbly conceived against the Relevancy, but since that was found against him, he would give their Lordships no further trouble either with making objections against Evidence or Jury, nor seek to purge himself of the supposed Perjury being rendered culpable of crimes of a far higher nature. And it was observed that Sr. George Lockart with the rest of the Earls Councill would not speak a word either to the Court or Jury. After the Paper was adjudged Treasonable; Hereupon the Jury was enclosed, and after some hours retirement they returned, and brought in the Earl of *Argyle* guilty of the High Treasons laid to his charge.

It is said that eight or nine Advocates who were of the Earls Counsil, (amongst which were those two learned Persons Sir *George Lockart*, and Sir *John Dalrimple*) gave it under their Hands that the *Paper* given into the Council by the Earl of *Argyle* did not import any treasonable Matter, which Fact of theirs ('tis said) is so ill resented, that the Lords of the Privy Council have appointed the Earl of *Athol*, the Lord *President* of the Sessions, the Lord *Collington*, and some others, to examine what the subscribed Paper may import of scandal against the Government.

And thus have we conducted the Earl of *Argyle* through his Tryal to his Conviction; there now remains nothing but his Condemnation and Exception, unless His Majesty upon a mature Consideration of all circumstances shall please to grant him his gracious Pardon.

7. Chap.

7. Chap. *Of the Reasons alleadged by some eminent Ministers of the Kirk of* Scotland, *why they refuse to take the Test-oath.*

THe Earl of *Argyle* is not alone in his questioning the lawfulneſs of taking the Oath without limitations, and due clauſes, for I find many eminent Perſons amongſt the confirming Clergy, who have met with the ſame or greater Difficulties, which that I may evidence I ſhall faithfully give the Reader a Copy of a certain *Manuſcript* drawn up by them in the following words.

Grounds upon which ſome of the Conformed Miniſters ſcruple to take the Teſt.

Grounds wherupon ſome of the Conformed Miniſters ſcruple to take the Teſt.

FIrſt, paſſing by the Danger of Oaths, when preſſed ſo generally, Men of the leaſt tenderneſs ordinarily ſwallow them eaſily, and make ſmall Conſcience of obſerving them, whilſt they that fear Oaths, are hardly induced to take them, and by their ſtrict obſervance make themſelves a Prey, we think it ſtrange that this Oath ſhould be Injoyned to us, who canno tbe ſuſpected rationally to incline either to Phanaticiſm or Popery, ſince by our Subſcriptions to the Oath of Supremacy and Canonical obedience, we have ſufficiently purged our ſelves of the firſt, and by our refuting Popiſh Errors daily in our Pulpits do ſhew an utter abhorrence of the other, and further, ſince meerly our owning of Epiſcopal Government, has begot and ſtill increaſes in the minds of our People, ſuch an Averſion from and diſlike of us, we would have expected that our ſpiritual Fathers would not have expoſed us to greater loathing and contempt by ſuch Engagements; which although it ſhould be granted to be cauſeleſs and unjuſt. Yet we think our ſelves bound to ſhun it, that our Miniſtry may be the more taking with them, ſince the thing preſſed upon us, is neither abſolutely neceſſary, nor yet ſo evident in what is aſſerted for truth, as may incourage us for to under ly their Prejudice conceived thereupon, and finally, ſince it is known that objuring the Covenant did hinder many Miniſters to conform, and People to joyn in Ordinances diſpenſed by Conformiſts, and our Parliaments had hitherto ſhewed ſuch civil Moderation as to free us from the Declaration, we cannot look at it, but as bad and fatal that our Church ſhould

ſhould be daſhed on this Rock, which may occaſion its ſplitting, and inſtead of quenching this former Evil create new Flames.

Secondly, as we wiſh for the ſuppreſſing of the Growth of Popery, a more particular way had been made uſe of, even for the diſcovering of ſuch, as are of no publick Truſt, ſo we cannot but regret that this Teſt has been ſo framed, as to divide the ſound ſober Presbiterians amongſt themſelves, whereby our Common Enemies are gratify'd, and the true Faith indangered, we being perſwaded that there are many Presbiterians in the Kingdom, Gentlemen, Miniſters and others; who cannot in conſcience take this Teſt, who yet do dayly come and are ready to Joyne with us in Ordinances. We think it had been fitter to have condeſcended ſomething for gaining of ſuch, then to have put ſuch a brand upon them, which may more alienate them and weaken us.

Thirdly, that Confeſſion of Faith Recorded in the firſt Parliament of King *James* the 6th, has ſome things in it, which may ſcare the Swearing to it without Limitation, as 1ſt, Section the 15th. it Aſſerts thoſe to be evil works, which are done not only *contra*, but *preter verbum Dei*, 2dly, Section the 25th. It Aſſerts ſuch as reſiſt the Supream Power, doing that which pertains to his charge, and whileſt he vigilently Travels in his office, does reſiſt the Ordinances of God, which Clauſes may bear an encluſive ſence, eſpecially when in the 5th Section, it is reckoned among good works to ſuppreſs Tyranny, 3dly, Section the 15th, Jeſus Chriſt is Aſſerted to be the only Head and Law-giver of his Kirk, and it is counted Blaſphemy for Angels or Men to Intrude themſelves into the ſaid Honor and Office, 4th. Section the 23th. on the Sacrament, Popiſh Baptiſm is denyed as to its vallidity, and Popiſh Prieſts denyed to be true Miniſters, which expreſſions if narrowly ſcanned, will be found of dangerous Conſequence, and contradictory to other Poſitions in the Teſt it ſelf.

Fourthly, we fear that our People may look on us rather as Countenancers and Incouragers, then ſuppreſſers of Popery, ſeeing by the Act we are obliged to dilate yearly in October ſuch as withdraw from our Miniſtry, that they may be puniſhed by the Civil Magiſtrates, & yet by the ſame Act. The Kings lawful brother and ſons in *perpetuum* are Exempt from taking the Teſt, and conſequently left at Liberty to be Papiſts or Proteſtants, and what bad Influence the Example may have on Inferior People may eaſily be apprehended, and our taking the Teſt will be reputed an approving of that exemption, which will

be more ſtumbling. That all former Acts againſt Papiſts were made without any Exemption, and them all declared to be diſloyal, who embraced not the Reformed Religion, particularly in the 47 Act of the third Parliament of *James* the 6th, and the 8th. Act of the firſt Parliament of *Charles* the 2d.

Fifthly, we are to ſwear that there lyes no Obligation on us by vertue of the late Covenants, or any other Manner of way to endeavor the change of the Government, either in Church or State, as it is eſtabliſhed by law, where we ſuppoſe we are ſworn not only to maintain Monarchy, but alſo as our Law tyes us in the preſent line, and in the neareſt akin to our preſent King, altho they ſhould be Papiſts, altho we Judge the Coronation Oath in the 8th Act of the 1ſt. Parliament of *James* the 6th to be contradictory, which yet is a ſtanding unrepealed law, ſince this currant Parliament hath ratified and confirmed all Acts made in favor of the Proteſtant Religion, whereof this is one, ſo that we ſwear contradictions.

Sixthly, as for the Church Government, as it is now eſtabliſht by Law, there hath not been, nor are yet wanting ſound Proteſtants, who Aſſert the *Jus divinum* of Epiſcopacy, ſuch could not in conſcience take this Oath, ſeeing the King by virtue of his Prerogative and Supremacy is impowered by Law to diſpoſe of the External Government, and Policy of the Church, as he pleaſes, as for ſuch as look upon Epiſcopal Government, as indifferent in it ſelf. Notwithſtanding the ſubmiſſion that we give to it, or have Ingaged for, they can as little ſwear on theſe terms, for why ſhould they ſwear never to endeavor to alter that which in it ſelf they look upon as alterable, there being no indifferent thing which in tract of time through the Corruption of Men, do not prove hurtful, and why might not men in their Station endeavor the Refreſhing by fair means, any ſuch evil, and adviſe his Majeſty if he be willing to enert the power ſetled on him by the law, for freeing the Church from any Inconveniency, and altho we have engaged to obey Biſhops, yet we ever did wiſh that they may be ſetled amongſt us in a way more ſuitable to the primitive times, *viz.* That their number might be more encreaſed, that they might be called by the Church alenarly to that office and that they might be made liable to the Cenſure of the Church for their Doctrine life and Diligence, that they might not be ſuch pragmatical Medlers in Civil affairs, and that Synods and Presbiteries might have more power then is Aſſigned them

them by the Act of Reſtitution, from the ſeeking a Remedy in any of which things, this Oath doth tye us up.

Seventhly, the power given to the King by the preſent laws, if he ſhould be popiſh ſhould be very prejudicial to the Proteſtant Intereſt, for by the firſt Act of the 2d Parliament of *Charles* the 2d he may not only diſpoſe of the external Policy of the Church, but may Emit ſuch Acts concerning the Perſons imployed therein, in all Eccleſiaſtical Meetings and Matters to be treated upon therein, which he ſhall think fit, and this Act only publiſhed are to oblige all his Subjects, and by the Act for a National Synod, no Doctrinal Matter may be propoſed, debated or concluded in that his expreſs Allowance, in the aforeſaid cauſe it is eaſily to divine, what Advantage the Enemies of our Religion will have for the overturning of all.

Hoc Ithacus velit & magno mercentur Atridæ.

The Concluſion.

That nothing may be wanting to give a thorough light into this dark Affair, I thought it not amiſs to recommend to the Reader,

The *Act*

Anent *Religion*, and the *Teſt*

At *Edinburgh* the laſt day of *Auguſt*. 1681.

ACT Anent RELIGION, and the TEST. At Edinburgh *the laſt day of* Auguſt, *One thouſand ſix hundred eighty and one.*

THE WHICHDAY, *Our Soverign Lord* with His Eſtates of Parliament, Conſidering That albeit, by many wholſome Laws made by his Royal Grandfather, and Father of glorious memory, and by himſelf, in this, and His other Parliaments ſince His happy Reſtauration, the Proteſtant Religion is carefully aſſerted eſtabliſhed and ſecured, againſt Popery and Phanaticiſm: Yet the reſtleſs Adverſaries of our Religion, do not ceaſe to propagate their errours, and to ſeduce His Majeſties Subjects from their duty to God, and Loyalty to his Vice-gerent, and to overturne the eſtabliſhed Religion, by introducing their Superſtitions

and deluſions, into his Church and Kingdom. And knowing that nothing can more encreaſe the numbers and confidence of Papiſts, and Shiſmatical diſſenters from the Eſtabliſhed Church, then the ſupine neglect of putting in execution the good Laws provided againſt them, together with their hopes to inſinuate themſelves into Offices and Places of Truſt and publick Imployment. THEREFORE, His Majeſty, from his Princely and pious zeal, to maintain and preſerve the Proteſtant Religion, contained in the *Confeſſion of Faith*, recorded in the firſt *Parliament* of King *James* the ſixth, which is founded on, and agreeable to the written Word of God; DOETH, with advice and conſent of His Eſtates of Parliament, Require and Command, all His Officers, Judges, and Magiſtrats, to put the Laws made againſt Popery, and Papiſts Prieſts, Jeſuits, and all perſons of any other Order in the Popiſh Church, eſpecially againſt ſayers and hearers of Maſs; Venders and diſperſers of forbidden Books; And Reſſetters of Popiſh Prieſts, and excommunicat Papiſts: As alſo, againſt all Phanatick Separatiſts from this National Church; Againſt Preachers at Houſe, or Field Conventicles, and the Reſſetters, and harbourers of Preachers, who are Intercommuned; Againſt diſorderly Baptiſms, and Mariages, and irregular Ordinations, and all other Shiſmatical diſorders, to full and vigorous execution, according to the Tenor of the Reſpective Acts of Parliament thereanent provided: And that His Majeſties Princely care to have theſe Laws put in execution, againſt thoſe Enemies of the Proteſtant Religion, may the more clearly appear: HE DOETH, with advice and conſent forſaid, STATUT and ORDAIN, that the Miniſters of each Paroch, give up in *October* yearly, to their reſpective Ordinaries, true and exact liſts of all Papiſts, and Schiſmatical withdrawers from the publick Worſhip, in their reſpective Paroches; which liſts are to be ſubſcribed by them, and that the Biſhops give in an double of the ſaids Liſts ſubſcribed by them, to the reſpective Sheriffs, Stewards, Bailies of Royalty, and Regality, and Magiſtrats of Burghs, To the effect the ſaids Judges may proceed againſt them according to Law: As alſo, the Sheriffs, and other Magiſtrats forſaid, are hereby ordained to give an account to His Majeſties Privy Council in *December* yearly, of their proceedings againſt thoſe Papiſts, and Phanatical Separatiſts, as they will be anſwerable at their higheſt peril. And that the diligences done by the Sheriffs, Bailies of Regalities, and other Magiſtrats forſaids, may be the better enquired into by the Council, the Biſhops of the reſpective Dioceſſes, are to ſend exact doubles

bles of the Lists of the Papists, and Phanaticks, to the Clerks of Privy Council, whereby the diligences of the Sheriffs, and other Judges forsaids, may be controlled and examined. And to cut off all hopes, from Papists and Phanaticks of their being imployed in Offices and Places of publick Trust, IT IS HEREBY STATUT and ORDAINED, that the following *Oath* shall be taken by all persons in Offices and places of publick Trust, Civil, Ecclesiastical, and Military, especially by all Members of Parliament, and all Electors of Members of Parliament, all Privy Counsellers, Lords of Session, Members of Exchequer, Lords of Justiciary, and other Members of these Courts; all Officers of the Crown, and State; all Arch-Bps & Bps, and all Preachers and Ministers of the Gospel whatsoever; all persons of this Kingdom, named or to be named Commissioners for the Borders; all Members of the Commission for Church Affairs; all Sheriffs, Stewards, Bailies of Royalties and Regalities, Justices of the peace, Officers of the Mint, Commissars and their Deputs, their Clerks and Fiscals, all Advocates and Procurators before any of these Courts, all Writers to the Signet, all publick Nottars, and other persons imployed in Writing or Agenting: The Lyon King at Arms, Heraulds, Pursevants, and Messengers at Arms; all Collectours, Sub-collectours and Fermourers of His Majestie's Customs and Excise; all Magistrats, Deans of Gild, Councillors, and Clerks of Burghs Royal and Regality; all Deacons of Trades, and Deacon-Conveeners in the saids Burghs; all Masters and Doctors in Universities, Colledges, or Schools; all Chaplains in Families, Pedagogues to Children; and all Officers and Souldiers in Armies, Forts, or Militia, and all other persons in publick Trust or Office within this Kingdom, who shall publickly swear, and subscribe the said Oath as follows, *viz.* The Arch Bishops, Chief Commander of the Forces, and Officers of the Crown and State, and Councellers, before the Secret Council: All the Lords of Session, and all Members of the Colledge of Justice, and others depending upon them, before the Session: The Lords of Justiciary, and those depending upon that Court, in the Justice Court: The Lords, and other Members of Exchequer, before the Exchequer. All Bishops, before the Arch-Bishops: All the Inferiour Clergy, Commissars, Masters and Doctors of Universities, and Schools, Chaplains and Pedagogues, before the Bishops of the respective Dioceses: Sheriffs, Stewarts, Bailies of Royalty and Regality, and those depending on these Jurisdictions, before these respective Courts: And Provosts, Bailies and others of the Burgh, before the Town Council: all Collectors and Fermourers

mourers of the King's Cuſtoms and Exciſe, before the Exchequer; The Commiſſioners of the Borders, before the Privy Council; All Juſtices of Peace,, before their Conveener; And the Officers of the Mint before the General of the Mint; And the Officers of the Forces, before the Commander in Chief; and Common Souldiers before their reſpective Officers; The Lyon before the Pivy Council; and Heraulds, Purſevants and Meſſengers at Arms, before the Lyon. And His Majeſty, with conſent foreſaid, STATUTS and ORDAINS, that all thoſe who preſently poſſeſs or enjoy any of the foreſaids Offices, publick Truſts, or Imployments, ſhall take and ſubſcribe the following Oath, in one of the foreſaids Offices, in manner before preſcribed, betwixt and the firſt of *January* next, which is to be recorded in the Regiſters of the reſpective Courts, and Extracts thereof under the Clerks hands, to be reported to His Majeſties Privy Council, betwixt and the firſt of *March* next, One thouſand ſix hundred eighty two, and thereafter in any other Courts, whereof they are Judges or Members, the firſt time they ſhall ſit, or exerce in any of theſe reſpective Courts: And ordains, that all who ſhall hereafter be promoted to, or imployed in any of the foreſaids Offices, Truſts, or imployments ſ[illegible]entry into, and before their exercing thereof, take and ſubſ[illegible] Oath in manner foreſaid, to be Recorded in the Regiſters of the reſpective Courts, and reported to His Majeſties Privy Council, within the ſpace of fourty days after their taking the ſame: And if any ſhall preſume to exerciſe any of the ſaids Offices, or Imployments, or any publick Office, or Truſt, within this Kingdom, (the King's lawful Brothers and Sons only excepted) until they take the Oath foreſaid, and ſubſcribe it, to be recorded in the Regiſters of the reſpective Courts, They ſhall be declared incapable of all publick Truſt thereafter, and be further puniſhed with the loſs of their Moveables, and Liferent-Eſcheat, the one half whereof to be given to the Informer, and the other half to belong to his Majeſty, And His Majeſty, with Advice foreſaid, recommends to His Privy Council to ſee this Act put to due and vigorous Execution.

F I N I S.